

# JOURNAL OF THE FLORIDA SENATE

Wednesday, May 1, 1974

The Senate was called to order by the President at 2:00 p.m.  
A quorum present—39:

Mr. President	Graham	Peterson	Sykes
Barron	Gruber	Pettigrew	Trask
Brantley	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
Deeb	Johnston	Saunders	Weber
Firestone	Lane (31st)	Saylor	Williams
Gallen	Lane (23rd)	Scarborough	Wilson
Gillespie	Lewis	Sims	Winn
Glisson	McClain	Smathers	Zinkil
Gordon	Myers	Stolzenburg	

The President stated that since the Senate did not meet April 30, the National Day of Prayer, he asked the Senate Chaplain to lead the Senate in a special prayer this day.

## Prayer by the Senate Chaplain:

Almighty God, our Father, as we stand before your presence today we are aware by our human reason that in this very act, our faith causes us to stand on the edge of the sublime and yet, to the unbelieving heart, the ridiculous.

We recall the words of Thomas Payne "The sublime and the ridiculous are often so nearly related that it is difficult to class them separately, one step above the sublime makes the ridiculous and one step above the ridiculous makes the sublime again." ("The Age of Reason").

Your word has taught us that in relation to human reason faith may well be viewed as foolishness but to those who dare to believe, it is power, producing salvation.

So do we stand submitting ourselves through our faith but asking you to help our unbelief. We would allow those who would, to scoff or think we are ridiculous but we believe that we see your hand in history as with the people of Israel in ancient and modern times and also through every endeavor of the church. You have taught us through your servant Paul that you are mysteriously but genuinely involved in world affairs and government. This we are to believe even though people willfully and selfishly but temporarily thwart your purpose.

We bring our beloved land to you: Beloved because of our heritage born of industry, determination and religious and moral conviction that grew from the deep roots of faith in yourself.

In so many ways we have become indifferent to you and your power and we have allowed our human haughtiness intellectually and technologically to intrude upon our faith so that we have become our own gods and by this we have seen the deterioration that such idolatry brings spiritually and morally. So do we confess that we have not always, seriously, sought your purpose for our land and our state: But we do so now.

Minister in a special way to these busy Senators who serve so well in this portion of your great world vineyard. May they continue to labor well, not for themselves, but for you: For if they labor well for you they labor well for the people and themselves.

Hear us in the name of our Lord Jehovah. Amen.

Boy Scout Troop 144 presented the colors and the Senate pledged allegiance to the flag of the United States of America. Mrs. Betty Old rendered the National Anthem, and a portion of the College Chorale of the First Baptist Church of Tallahassee sang "America the Beautiful" and "God Bless America".

## REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends that the following bills be placed on Special Order for Wednesday, May 1, 1974, at 2:00 p.m.:

Thomas E. David Resolution (SCR 494) to be heard at 2:15

SCR 699	SB 499	SB 334	HB 1974
SR 692	SCR 784	SB 335	HB 1107
SCR 625	SB 66	CS for SB 79	HB 611
HB 2155	CS for SB 283	CS for SB 219	SB 573

Respectfully submitted,  
*Dempsey J. Barron, Chairman*

The Committee on Judiciary recommends the following pass:

SB 439 with 1 amendment      HB 1024

The bills were referred to the Committee on Commerce under the original reference.

The Committee on Consumer Affairs recommends the following pass:      SB 713 with 1 amendment

The bill was referred to the Committee on Transportation.

The Committee on Consumer Affairs recommends the following pass: SB 721 with 1 amendment, SB 720 with 3 amendments

The Committee on Education recommends the following pass: SB 642 with 1 amendment

The Committee on Health and Rehabilitative Services recommends the following pass: SB 885 with 1 amendment

The Committee on Judiciary recommends the following pass: SB 181 with 5 amendments

The Committee on Natural Resources and Conservation recommends the following pass: SB 755

The Committee on Transportation recommends the following pass: SB 553

The bills contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Agriculture recommends the following pass:

SB 849 with 2 amendments	SB 1018 with 1 amendment
SB 966 with 9 amendments	SB 1021 with 1 amendment
HB 2551 with 1 amendment	SB 1022 with 1 amendment
SB 1017 with 5 amendments	

The Committee on Commerce recommends the following pass:

SB 631 with 1 amendment	HB 928
SB 770	HB 1757 with 1 amendment
SB 810	HB 2545
HB 1460 with 2 amendments	CS for HB 2929 with 1 amendment
HB 2038	
SB 792	

The Committee on Consumer Affairs recommends the following pass: SB 710 with 1 amendment

The Committee on Criminal Justice recommends the following pass:

SB 785	HB 1067 with 3 amendments
HB 1997 with 1 amendment	

The Committee on Education recommends the following pass:

HB 1145 with 4 amendments	HB 2621
HB 1174	HB 2892 with 3 amendments
HB 1782 with 6 amendments	SB 430 with 1 amendment
HB 2591	SB 511

The Committee on Health and Rehabilitative Services recommends the following pass:

SB 722 with 4 amendments      HB 588      HB 729

The Committee on Judiciary recommends the following pass:

SB 213 with 5 amendments      HB 1911 with 2 amendments  
SB 530 with 1 amendment      HB 1289  
SB 714      HB 2393  
SB 760      SB 895 with 1 amendment

The Committee on Natural Resources and Conservation recommends the following pass:

HB 187 (cs/cs)      SB 786  
SB 159      SB 793 with 1 amendment  
SB 765      SB 851 with 2 amendments  
SB 783 with 3 amendments

The Committee on Transportation recommends the following pass:

HB 218      SB 701  
HB 435 with 2 amendments      HB 776 with 1 amendment  
HB 1982      HB 455  
HB 1955 with 3 amendments      HB 1854 (cs)  
SB 678

The Committee on Ways and Means recommends the following pass:

SB 578 with 2 amendments      HB 2028 with 20 amendments  
HB 2359

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Consumer Affairs recommends a Committee Substitute for the following: SB 732

The Committee on Consumer Affairs recommends a Committee Substitute for the following: SB 711

The Committee on Health and Rehabilitative Services recommends a Committee Substitute for the following: SB 15, SB 513

The Committee on Judiciary recommends a Committee Substitute for the following: SB 346

The bills with Committee Substitutes attached contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Consumer Affairs recommends a Committee Substitute for the following: SB 5

The bill with Committee Substitute attached was referred to the Committee on Commerce under the original reference.

The Committee on Agriculture recommends a Committee Substitute for the following: SB 660

The Committee on Criminal Justice recommends a Committee Substitute for the following: SB 617

The Committee on Commerce recommends a Committee Substitute for the following: SB 520

The Committee on Commerce recommends a Committee Substitute for the following: SB 663

The Committee on Education recommends a Committee Substitute for the following: SB 492

The Committee on Ways and Means recommends a Committee Substitute as recommended by Committee on Natural Resources for the following: SB 330 with 1 amendment

The Committee on Commerce recommends a Committee Substitute for the following:

SB 679 with 1 amendment

The bills with Committee Substitutes attached contained in the foregoing reports were placed on the calendar.

The Committee on Judiciary recommends the following not pass:

SB 1048      HB 1259      HB 275

The bills were laid on the table.

## ENGROSSING REPORTS

Your Engrossing Clerk to whom was referred SB 522 with 1 amendment reports that the House amendment has been incorporated and the bill is returned herewith.

*JOE BROWN, Secretary*

The bill was ordered enrolled.

Your Engrossing Clerk to whom was referred—

SB 2 with 1 Senate amendment and 2 House amendments  
SB 165 with 1 Senate amendment and 6 House amendments

—reports that the Senate and House amendments have been incorporated and the bills are returned herewith.

*JOE BROWN, Secretary*

The bills were ordered enrolled.

Your Engrossing Clerk to whom was referred—

CS for SB 132 with 21 amendments  
SCR 820 with 2 amendments

—reports that the Senate amendments have been incorporated and the bills are returned herewith.

*JOE BROWN, Secretary*

The bills were certified to the House.

## ENROLLING REPORTS

Your Enrolling Clerk to whom was referred—

SB 2      SB 165      SB 522

—reports same have been enrolled, signed by the required Constitutional officers and presented to the Governor on May 1, 1974.

*JOE BROWN, Secretary*

Your Enrolling Clerk to whom was referred SB 609 reports same has been enrolled, signed by the required Constitutional officers and presented to the Governor on May 1, 1974.

*JOE BROWN, Secretary*

Your Enrolling Clerk to whom was referred SCR 685 reports same has been enrolled, signed by the required Constitutional officers and presented to the Secretary of State on May 1, 1974.

*JOE BROWN, Secretary*

## COMMITTEE REQUESTS FOR EXTENSION OF TIME

The Committee on Commerce requests an extension of 10 days for the consideration of the following:

SB 652 by Senator Glisson	HB 2504 by Representative Hazelton
SB 656 by Senator Trask	HB 2545 by Representative Birchfield
SB 663 by Senator Barron	HB 2631 by Representative Fontana
SB 665 by Senator Winn	HB 2939 by General Legislation Committee
SB 666 by Senator Lane (23rd)	SB 434 by Senator Johnson
HB 612 by Insurance Committee	SB 438 by Senator Johnson
HB 1105 by Insurance Committee	

SB 440 by Senator Johnson  
 SB 441 by Senator Johnson  
 SB 516 by Senator Glisson  
 SB 519 by Senator Winn  
 SB 520 by Senator Williams  
 SB 521 by Senator Gordon  
 SB 528 by Senator Glisson  
 SB 542 by Senator Vogt  
 SB 623 by Senator Johnson  
 HB 217 (cs) by General  
 Legislation Com-  
 mittee  
 HB 314 by Representative  
 Tucker  
 HB 732 by Representative  
 Tillman  
 HB 866 by Representative  
 Crabtree  
 HB 869 by Representative  
 Crabtree  
 HB 872 by Representative  
 Crabtree  
 HB 874 by Representative  
 Crabtree  
 HB 881 by Representative  
 Crabtree  
 HB 972 by Representative  
 Webb  
 HB 1135 by Representative  
 Andrews  
 SB 579 by Senator Horne  
 SB 597 by Senator Deeb  
 SB 613 by Senator Scar-  
 borough  
 SB 615 by Senator Glisson  
 HB 2595 by Finance and Tax-  
 ation Committee  
 SB 551 by Senator Gordon  
 SB 680 by Senator Trask  
 SB 682 by Senator Trask  
 SB 689 by Senator Brantley  
 SB 691 by Senator Trask  
 SB 693 by Senator Deeb  
 SB 694 by Senator Deeb  
 HB 1696 by Representative  
 Hartnett  
 CS for  
 HB 183 by Commerce Com-  
 mittee  
 SB 42 by Senator Winn  
 SB 59 by Senator  
 Henderson  
 SB 60 by Senator Poston  
 SB 72 by Senator Zinkil  
 SB 151 by Senator Lane  
 (31st)  
 SB 152 by Senator Lane  
 (31st)  
 SB 164 by Senator  
 Henderson  
 SB 169 by Senator Lane  
 (31st)  
 SB 170 by Senator Gordon  
 SJR 179 by Senator Gillespie  
 SB 191 by Senator Johnson  
 SB 198 by Senator Lewis  
 SB 214 by Senator Gordon  
 SB 272 by Senator Vogt  
 SB 344 by Senator Gordon  
 SB 355 by Senator Gordon  
 SB 356 by Senator Graham  
 SB 359 by Senator Deeb  
 SB 373 by Senator Graham  
 SB 378 by Senator Johnson  
 SB 388 by Senator Deeb  
 SB 402 by Senator Deeb  
 SB 403 by Senator Lewis  
 SB 407 by Senator Plante  
 SB 424 by Senator Gruber  
 SB 425 by Senator  
 Henderson  
 SB 448 by Senator McClain  
 SB 456 by Senator Weber  
 SB 457 by Senator Weber  
 SB 734 by Senator Gallen  
 HB 1697 by Representative  
 Dubbin

The Committee on Education requests an extension of 10 days for the consideration of the following:

SB 150 by Senator Saunders  
 SB 185 by Senator Johnson  
 SB 186 by Senator Johnson  
 SB 187 by Senator Johnson  
 SB 237 by Senator Johnson  
 SB 257 by Senator Childers  
 SB 269 by Senator Weber  
 SB 312 by Senator Poston  
 SB 331 by Senator Horne  
 SB 333 by Senator Horne  
 SB 401 by Senator Deeb  
 SB 484 by Senator Deeb  
 SCR 501 by Senator Deeb  
 SB 555 by Senator Williams  
 SB 576 by Senator Johnson  
 SB 593 by Senator Gruber  
 SB 596 by Senator McClain  
 SB 629 by Senator Graham  
 SB 639 by Senator Peterson  
 SB 651 by Senator Saunders  
 SB 658 by Senator Graham  
 SB 659 by Senator Graham  
 SB 667 by Senator Glisson  
 SB 724 by Senator Peterson  
 HB 1433 by Representative  
 Conway  
 HB 307 by Representative  
 Tucker  
 SB 738 by Senator  
 Gillespie  
 SB 743 by Senator Plante  
 SB 754 by Senator Zinkil  
 SB 772 by Senator Smathers  
 SB 487 by Senator Childers  
 SB 787 by Senator Sims  
 SB 807 by Senator Saunders  
 SB 846 by Senator Brantley  
 SB 847 by Senator Lane  
 (31st)  
 SB 857 by Senator Peterson  
 SB 866 by Senator Pettigrew  
 SB 883 by Senator Deeb  
 SB 887 by Senator Smathers

The Committee on Governmental Operations requests an extension of 10 days for the consideration of the following:

SB 584 by Senator Johnson  
 SB 591 by Senators Johnston  
 and Zinkil  
 SB 592 by Senator Glisson  
 SB 604 by Senator Wilson  
 SB 605 by Senator Wilson  
 SB 116 by Senator Pettigrew  
 SB 620 by Senator Saunders  
 SB 626 by Senator Deeb  
 SB 634 by Senator Vogt  
 HB 232 by Representative  
 Spicola  
 HJR 1464 by Representative  
 Dubbin  
 SB 526 by Senator Winn  
 SB 654 by Senator Wilson  
 SB 670 by Senators Zinkil  
 and Johnson  
 HB 524 by Representative  
 Carlucci  
 CS for HB 687 by Govern-  
 mental Operations  
 Committee  
 HB 782 by Representative G.  
 Robinson  
 HB 803 by Agriculture  
 Committee  
 SB 675 by Senator Smathers  
 SB 684 by Senator Saunders  
 SB 703 by Senator Smathers  
 SB 707 by Senator Ware

The Committee on Criminal Justice requests an extension of 10 days for the consideration of the following:

HB 544 by Representative  
 Singleton  
 SB 167 by Criminal Justice  
 Committee  
 HB 2567 by Representatives  
 Crenshaw and  
 Langley  
 SB 676 by Senator Johnson  
 HB 895 by Judiciary Com-  
 mittee  
 SB 645 by Agriculture Com-  
 mittee  
 SB 646 by Senator Johnson  
 SB 649 by Senator Deeb  
 SB 533 by Senator  
 Scarborough  
 SB 536 by Senator  
 Pettigrew  
 SB 537 by Senator Winn  
 HB 133 by Representative  
 Gautier  
 HB 166 by Representative  
 Gautier  
 HB 768 by Criminal Justice  
 Committee  
 HB 829 by Representative  
 Poorbaugh  
 HB 1524 by Criminal Justice  
 Committee  
 HB 1180 by Representative  
 Ted Randell and  
 others  
 HB 1171 by Representative  
 Marshall Harris  
 and others  
 SB 557 by Senator Winn  
 SB 552 by Senator Vogt  
 HB 617 by Representative  
 Poorbaugh  
 SB 16 by Senator Saunders  
 SB 10 by Senator Johnston  
 SB 39 by Senators Myers  
 and Deeb  
 SB 82 by Senator Firestone  
 SB 113 by Senator Glisson  
 SB 142 by Senator Lane  
 (31st)  
 SB 161 by Senator Lane  
 (31st)  
 SB 166 by Senator Gillespie  
 SB 177 by Senator Gillespie  
 SB 205 by Senator McClain  
 SB 236 by Senator Brantley  
 SB 254 by Senator Gruber  
 SB 301 by Senator Wilson  
 SB 302 by Senator Wilson  
 SB 303 by Senator Wilson  
 SB 304 by Senator Wilson  
 SB 345 by Senator Gillespie  
 SB 363 by Senator Gruber  
 SB 409 by Senator Firestone  
 SB 426 by Senator Scar-  
 borough  
 SB 472 by Senator Lane  
 (31st)  
 SB 473 by Senator Scar-  
 borough  
 SB 479 by Senator Gallen  
 SB 489 by Senator Pettigrew

The Committee on Health and Rehabilitative Services requests an extension of 10 days for the consideration of the following:

SB 13 by Senator Zinkil  
 SB 15 by Senator Saunders  
 SB 35 by Senator Sykes  
 SB 95 by Senator Pettigrew  
 SB 130 by Senator Myers  
 SB 163 by Senators Vogt  
 and Lewis  
 SB 188 by Senator Johnson  
 SB 193 by Senator Gordon  
 SB 194 by Senator Gordon  
 SB 208 by Senator Zinkil  
 SB 217 by Senators Vogt  
 and Myers  
 SB 220 by Senators Vogt  
 and Myers  
 SB 225 by Senator Gordon  
 SB 263 by Senator Stolzen-  
 burg  
 SB 289 by Senator Pettigrew  
 SB 290 by Senator Pettigrew  
 SB 322 by Senator Glisson  
 SB 354 by Senator Brantley  
 SB 367 by Senator Vogt  
 SB 370 by Senators Ware  
 and Glisson  
 SB 379 by Senator Johnson  
 SB 381 by Senator Johnson  
 SM 385 by Senator Glisson  
 SB 387 by Senators Glisson  
 and Johnson  
 SB 390 by Senator Lane  
 (23rd)  
 SB 512 by Senator Vogt  
 SB 417 by Senator Vogt  
 SB 513 by Senator Gordon  
 SB 523 by Senator Glisson  
 SB 524 by Senator Glisson  
 SB 545 by Senator Stolzen-  
 burg  
 SB 546 by Senator Gordon  
 SB 559 by Senator de la  
 Parte  
 SB 562 by Senator Gordon  
 SB 570 by Senator de la  
 Parte  
 SB 577 by Senator Glisson  
 SB 582 by Senator Johnson  
 SB 583 by Senator Johnson  
 SB 588 by Senator Hender-  
 son  
 SB 594 by Senator de la  
 Parte  
 SB 612 by Senator de la  
 Parte  
 HB 303 by Representative  
 Tucker  
 HB 318 by Representative  
 Williamson  
 HB 588 by Representative  
 Poorbaugh  
 HB 701 (cs) by Criminal  
 Justice Committee  
 HB 729 by Representative  
 Spicola  
 HB 991 by Representative  
 Earle  
 HB 995 by Representative  
 Earle  
 HB 1066 by Representative  
 Shreve

HB 1279 by Representative Fortune	SB 655 by Senator Vogt
HB 1298 by Representative Harris	SB 664 by Senator Vogt
HB 1520 by Representative Williamson	SB 686 by Senator Brantley
HB 1537 by Representative Mattox	SB 695 by Senator Brantley
HB 1702 by Representative Webb	SB 708 by Senator Winn
HB 1798 by Representative Forbes	SB 712 by Senator Ware
HB 1836 by Representative Hodes	SB 717 by Senator David Lane
HB 1709 (cs) by Health and Rehabilitative Services Committee	SB 719 by Senator Scarborough
SB 616 by Senator Pettigrew	SB 722 by Senator Myers
SB 640 by Senator Vogt	SB 731 by Senator Vogt
SB 643 by Senator Lewis	SB 742 by Senator David Lane
SB 644 by Senator Lewis	SB 745 by Senator Vogt
SB 653 by Senator Glisson	SB 756 by Senator Gruber
	HB 558 by Representative Easley
	HB 2040 by Insurance Committee
	HB 2086 by Commerce Committee

The Committee on Judiciary requests an extension of 10 days for the consideration of the following:

SB 107 by Senator Sykes	HB 312 by Commerce Committee
SB 595 by Senator McClain	HB 279 by Representative Smith
SB 611 by Senator Gallen	HB 1790 by Representative Sessums
SB 647 by Senator Brantley	SB 725 by Senator Gillespie
SB 527 by Senator Gallen	SB 727 by Senator Winn
SB 529 by Senator Sykes	SB 728 by Senator Barron
SB 375 by Senator Johnson	SJR 730 by Senator Myers
SJR 673 by Senator Gillespie	
SB 674 by Senator Myers	
SJR 690 by Senator McClain	
SB 697 by Senator Poston	

The Committee on Natural Resources and Conservation requests an extension of 10 days for the consideration of the following:

HB 1698 by Representative Robinson	SB 589 by Senator Henderson
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The Committee on Rules and Calendar requests an extension of 10 days for the consideration of the following:

SJR 25 by Senator McClain	SB 149 by Senator Gillespie
SJR 44 by Senator Winn	SB 175 by Senator Horne
SJR 47 by Senator Sayler	SB 199 by Senator Deeb
SJR 104 by Senator Lane (31st)	SB 207 by Senator Gallen
SB 115 by Senator Lane (31st)	SB 253 by Senator Trask
SB 52 by Senator Scarborough	SB 490 by Senator Johnson
SJR 125 by Senator Henderson	SB 635 by Senator Childers
SB 137 by Senator Pettigrew	HB 371 by Representative Melvin
SJR 140 by Senator Myers	HM 2261 by Representative Lockward
	HB 2574 by Representative Cherry
	SCR 661 by Senator McClain

The President announced the appointment of Senators Saunders, Plante, Graham and Myers as members of the Joint Select Committee on Federal Funding.

On motion by Senator Barron, the following resolution was ordered spread upon the Journal:

#### RESOLUTION

The Leon County Association of Community Services, a local chapter of the Florida Association for Health and Social Services, Inc., would like to have read into the minutes a Resolution in memory of Mrs. Clifford Horne, who died on March 3, 1974.

WHEREAS, Mrs. Horne became a charter member of the local and state groups in 1938, and was an active member until 1959, at which time she retired from the Division of Family Services, and,

WHEREAS, she was accorded the honor of becoming one of four Honorary Members, which honor was bestowed upon her

for the effectiveness of her work, her fine rapport with the many people she helped as a Social Worker throughout the twenty-two (22) years with the Division, as well as her kindly and friendly manner with her co-workers in the agency, and,

WHEREAS, her value as a person went beyond her work and into her other community activities, as well as a loyal and helpful worker in her church,

THEREFORE, be it resolved that the Leon County Association of Community Services recognizes her value in the contribution she made in the field of Social Welfare from the beginning of the State Welfare Program, and,

That copies of this resolution be sent to her children: Dr. Cleveland Horne, Mr. William Horne, Mrs. Louise Horne Burns and Senator Mallory Horne.

DATED at Tallahassee, Florida, this 12th day of April, 1974.

#### HONORARY MEMBERS:

Coyle Moore, Ph.D.  
Jennings Rehwinkel  
(Mrs.) Lola O'Dea  
William McGill  
President, Local Chapter

Irwin Johns, Ph.D.,  
President Elect  
(Mrs.) Adele Bauer,  
Vice President  
(Mrs.) Margaret Dowdy,  
Secretary-Treasurer

#### MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Pettigrew, CS for HB 895 was withdrawn from the Committee on Criminal Justice by two-thirds vote and referred to the Committee on Judiciary.

Senator Myers moved that SB 1016 be withdrawn from the Committee on Commerce.

Senator Deeb moved as a substitute motion that SB 1016 also be referred to the Committee on Governmental Operations and the motion failed.

The question recurred on the motion by Senator Myers which failed to receive the necessary two-thirds vote. The vote was:

Yeas—19

Firestone  
Glisson  
Gordon  
Graham  
Gruber

Johnson  
Lane (31st)  
Lane (23rd)  
Lewis  
Myers

Peterson  
Pettigrew  
Poston  
Saunders  
Sayler

Sims  
Vogt  
Williams  
Wilson

Nays—18

Mr. President  
Barron  
Brantley  
Childers  
Deeb

Gallen  
Gillespie  
Johnston  
McClain  
Plante

Smathers  
Stolzenburg  
Sykes  
Trask  
Ware

Weber  
Winn  
Zinkil

On motions by Senator Brantley, Senate Bills 863 and 952 were withdrawn from the Committee on Commerce by two-thirds vote and from further consideration of the Senate.

On motion by Senator Williams, SB 828 was withdrawn from the Committee on Governmental Operations by two-thirds vote and referred to the Committee on Health and Rehabilitative Services.

On motion by Senator Lane (23rd), SB 389 was withdrawn from the Committee on Governmental Operations by two-thirds vote and referred to the Committee on Health and Rehabilitative Services.

On motion by Senator Firestone, SB 713 was withdrawn from the Committee on Ways and Means by two-thirds vote.

On motion by Senator Firestone, SB 721 was withdrawn from the Committee on Ways and Means by two-thirds vote.

On motion by Senator Wilson, SB 813 was withdrawn from the Committees on Commerce and Ways and Means by two-thirds vote and from further consideration of the Senate.

On motion by Senator Barron, SB 137 was withdrawn from the Committee on Rules and Calendar by two-thirds vote and referred to the Committee on Governmental Operations.

On motion by Senator Graham, SB 1006 was withdrawn from the Committee on Commerce by two-thirds vote and referred to the Committee on Governmental Operations.

#### EXECUTIVE BUSINESS

By direction of the President, the following communication, certificate and report were read:

Honorable Joe Brown  
Secretary of the Senate  
The Capitol

April 24, 1974

Dear Mr. Brown:

Pursuant to the provisions of Section 112.071 (1), (b), Florida Statutes, we are enclosing a certificate listing the names of persons for whom commissions have been prepared and which are subject to confirmation by the Senate.

With kind regards, I remain

Cordially,  
**RICHARD (DICK) STONE**  
Secretary of State  
By (Mrs.) *Dorothy W. Glisson*  
Director, Division of Elections

I, Richard (Dick) Stone, Secretary of State of the State of Florida, do hereby certify that pursuant to the provisions of Section 112.071 (1), (b), Florida Statutes, commissions which are subject to Confirmation by the Senate have been prepared for the following:

NAME	OFFICE	FOR TERM ENDING
Tom Corley Panama City	Member, Board of Pilot Commissioners for the Port of Panama City, Bay County	June 14, 1977
Violet B. Gainer Panama City	Member, Board of Pilot Commissioners for the Port of Panama City, Bay County	June 14, 1977
James B. Hall Daytona Beach	Member, Ponce de Leon Port Authority, Volusia County	February 1, 1975



Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capital, this the Twenty-fourth day of April A. D. 1974.

**RICHARD (DICK) STONE**  
Secretary of State

The President referred the foregoing appointments to the Committee on Natural Resources and Conservation.

Senator Mallory E. Horne  
President, The Florida Senate  
The Capitol

April 25, 1974

Dear Mr. President:

Your Standing Committee on Commerce to whom was referred for inquiry and recommendation the following appointment subject to confirmation by the Senate:

NAME	OFFICE	FOR TERM ENDING
Elmer O. Friday, Jr. Tallahassee	Member, Industrial Relations Commission	Pleasure of the Governor

—having met, and after full inquiry, hereby tenders as the recommendation of this Committee that the Senate do advise and consent, and approve the aforesaid appointment made by the Governor.

Respectfully Submitted,  
**LEW BRANTLEY**, Chairman  
**W. D. CHILDERS**  
**DAN SCARBOROUGH**  
**CHARLES H. WEBER**  
**KEN PLANTE**

**SHERMAN S. WINN**,  
Vice Chairman  
**DEMPSEY J. BARRON**  
**TOM GALLEN**  
**WARREN S. HENDERSON**

On motion by Senator Brantley, the report of the Committee was adopted, and the Senate in open session approved and confirmed the appointment set forth in the foregoing report. The vote was:

Yeas—34

Mr. President	Gruber	Poston	Vogt
Barron	Henderson	Saunders	Ware
Brantley	Johnson	Saylor	Weber
Childers	Lane (31st)	Scarborough	Williams
Firestone	Lewis	Sims	Wilson
Gallen	Myers	Smathers	Winn
Gillespie	Peterson	Stolzenburg	Zinkil
Glisson	Pettigrew	Sykes	
Gordon	Plante	Trask	

Nays—None

#### MESSAGES FROM THE GOVERNOR

The Governor advised that he had filed in the office of the Secretary of State SB 380 which he had approved on April 25 and CS for SB 62, Senate Bills 61, 76 and 209 which he had approved on April 29.

#### VETOED BILLS 1973 REGULAR SESSION

The following were received by the Senate at the Special Session January 29-30, 1974 (and not taken up) and are entered in the Journal pursuant to Article III, Section 8 of the Constitution:

Honorable Richard Stone  
Secretary of State  
The Capitol

June 8, 1973

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 743, enacted by the Third Legislature of Florida under the Florida Constitution, 1968 Revision, of 1973, and entitled:

"An act relating to horse racing; permitting the attendance of minors, twelve (12) and over, at horse race meetings; prohibiting pari-mutuel wagering and purchase of alcoholic beverages by minors; adding Section 550.48, Florida Statutes, repealing inconsistent laws; providing an effective date."

Senate Bill 743 creates Section 550.48, Florida Statutes, and authorizes minors to attend thoroughbred horse racing meetings when accompanied by the minor's parent or guardian. Whatever the possible benefits of this policy in terms of convenience to parents or positive impact on state revenues, they are far outweighed by the potential for harm.

I strongly oppose the idea of exposing minors to the atmosphere which frequently accompanies pari-mutuel gambling together with the serving of alcoholic beverages. Whatever the intended purpose of this bill might have been, an inescapable by-product would be the exposure of children to habit forming activities at an impressionable age.

Some would argue that minors should be allowed to accompany their parents to a horse race the same as they are permitted to attend other sporting events. With this argument I disagree. The injection of gambling into the sport gives it an altogether different character.

Attendance of a horse race in itself could indeed be an educational experience for young people. The tradition is indeed part of our American heritage. I would therefore have no ob-

jections to a bill which would establish certain days whereby young people would be allowed to view thoroughbred horse racing, provided that on such days gambling and alcoholic beverages would not be allowed on the premises.

For the above reasons, I am withholding my approval of Senate Bill 743, Regular Session of the Legislature, commencing April 1, 1973, and do hereby veto the same.

Sincerely,  
**REUBIN O'D. ASKEW**  
Governor

Honorable Richard Stone  
Secretary of State  
The Capitol

June 15, 1973

Dear Mr. Secretary:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I hereby withhold my approval of and transmit to you with my objections Senate Bill 628 enacted by the Third Legislature of Florida under the Florida Constitution, 1968 Revision, during the Regular Session of 1973, and entitled:

"An act relating to capitol security; amending Sections 272.13—272.15, Florida Statutes; creating a capitol center security commission; providing its membership, powers and duties; removing certain powers of the department of general services; providing the commission authority for security of the capitol center area; providing an effective date."

Senate Bill 628 amends the law governing capitol center security, and sets up a fifteen member Capitol Center Security Commission, to be composed of the Governor and Cabinet, four members of the House of Representatives appointed by the Speaker, and four Senators appointed by the Senate President. All members would serve ex officio, and they would select one member to serve as chairman. Twelve members would constitute a quorum, required to conduct business. The Commission would employ a Director of Security and such other persons as are necessary to provide security for the capitol center area.

The Capitol Center Security Commission is declared to be a "legislative agency." The structure of the agency, however, is completely unique in Florida government.

The provision of security is, of course, an aspect of police power which is a fundamental constitutional responsibility of the executive branch of government. The Legislature has the power and responsibility to maintain security of its own chambers. Although the Legislature maintains its own buildings and parking facilities, including the security thereof, it does so as a housekeeping function and has not extended this function to buildings and facilities assigned to the executive branch.

Article II, Section 3, the Constitution of the State of Florida provides:

Branches of government—The Powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

There is no express provision in the Constitution authorizing an agency with structure or responsibilities such as the proposed Capitol Center Security Commission established by Senate Bill 628, and it is apparent that the bill is in violation of the separation of powers requirement of the Constitution.

I have discussed my objections regarding Senate Bill 628 with the Speaker of the House and the President of the Senate. They are of the opinion that a veto of Senate Bill 628 would not cause a serious disruption in the maintenance of security for the capitol center. I appreciate the concern of the Speaker and the President that adequate security be provided and I will certainly cooperate in steps to insure that it is.

For the above reasons, I am withholding my approval of Senate Bill 628, Regular Session of the Legislature, commencing April 3, 1973, and do hereby veto the same.

Sincerely,  
**REUBIN O'D. ASKEW**  
Governor

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Mallory E. Horne, President* April 26, 1974

I am directed to inform the Senate that the House of Representatives has adopted SCR 820.

*Allen Morris, Clerk*

*The Honorable Mallory E. Horne, President* April 26, 1974

I am directed to inform the Senate that the House of Representatives has passed—

SB 427	SB 128	SB 64
SB 100	SB 38	

*Allen Morris, Clerk*

*The Honorable Mallory E. Horne, President* April 30, 1974

I am directed to inform the Senate that the House of Representatives has adopted SCR 19.

*Allen Morris, Clerk*

The bills contained in the above messages were ordered enrolled.

*The Honorable Mallory E. Horne, President* April 29, 1974

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment and passed as amended HB 840.

*Allen Morris, Clerk*

*The Honorable Mallory E. Horne, President* April 26, 1974

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment and passed as amended HB 488.

*Allen Morris, Clerk*

*The Honorable Mallory E. Horne, President* April 24, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended HB 2346 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By Representative Danahy and others—

HB 2346—A bill to be entitled An act relating to public officers and employees, commission on ethics; creating §§112.320, 112.321, 112.322, 112.323, 112.324, and 112.325, all Florida Statutes; establishing a commission on ethics for officers and employees of state and local agencies; providing for its membership, duties, and powers; providing for staff; authorizing payment of travel expenses to members; providing for the enforcement of ethical standards; providing procedures; providing penalties; repealing §§112.315, 112.317, and 112.318, Florida Statutes, relating to advisory opinions by attorney general, penalties for violation of part III, chapter 112, Florida Statutes, and procedures on complaints of violation; providing an effective date.

—was read the first time by title and referred to the Committee on Rules and Calendar.

*The Honorable Mallory E. Horne, President* April 29, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended CS for CS for HB 3418 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Appropriations and Representative L. McDonald and others—

CS for CS for HB 3418—A bill to be entitled An act relating to public officers and employees and candidates for public office; amending §§112.311, 112.312, 112.313, 112.314, 112.316, and 112.317, Florida Statutes, 1973, and creating §§112.3145 and 112.3155, Florida Statutes, providing legislative intent; providing definitions; establishing standards of conduct for public

officers and employees, candidates, advisory board members, legislators and legislative employees, and judicial officers; requiring disclosure of financial interests by source and percentage by public officers and candidates; including spouse and minor child within the definition of public officer for purposes of financial disclosure; including in the requirement to disclose total compensation received, all persons doing consulting work with an agency; providing for forms and procedures for such disclosures; providing for construction of part III of chapter 112, Florida Statutes; providing enforcement; repealing §112.318, Florida Statutes, 1973, relating to procedures on complaints of violation of part III of chapter 112, Florida Statutes; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations.

*The Honorable Mallory E. Horne, President* April 29, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1941 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Natural Resources—

HB 1941—A bill to be entitled An act relating to environmental protection; creating an environmental program review committee; providing staff; establishing powers and responsibilities; providing for access to agency information; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations.

*The Honorable Mallory E. Horne, President* April 30, 1974

I am directed to inform the Senate that the House of Representatives has passed—

HB 622 (cs) CS for HB 2409

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Environmental Protection and Representative Spicola and others—

HB 622 (cs)—A bill to be entitled An Act relating to pollution control; creating Section 403.048, Florida Statutes, providing for disclosure of income by pollution control board members; providing for filing a statement with the secretary of state; providing a penalty; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations.

By the Committee on Environmental Protection and Representatives Spicola and Malloy—

CS for HB 2409—A bill to be entitled An act relating to outdoor recreation and parks; providing duties of the division of recreation and parks relating to acquisition and development of outdoor recreation facilities and parks; providing for acquisition of land, water areas and related resources; amending the definition of the term outdoor recreational purposes in the section providing for limitation on liability; amending subsection (1) of section 375.021, subsections (2) and (3) of section 375.031, section 375.032, subsection (5) of section 375.251, Florida Statutes; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations.

*The Honorable Mallory E. Horne, President* April 29, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 3093 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on General Legislation and Representative Spicola—

CS for HB 3093—A bill to be entitled An act relating to the maximum length of race meetings for pari-mutuel permit holders; amending subsection (1) of §550.08, Florida Statutes, providing an exception for certain thoroughbred horse tracks; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

*The Honorable Mallory E. Horne, President* April 29, 1974

I am directed to inform the Senate that the House of Representatives has passed HB 3965 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By the Committee on Appropriations—

HB 3965—A bill to be entitled An act relating to appropriations; amending section 2 of Chapter 73-335, Laws of Florida, 1973, providing an additional appropriation of fifteen thousand thirty-two dollars (\$15,032) to the department of agriculture and consumer services, division of marketing; providing said appropriation to be added to monies appropriated from the general inspection trust fund for construction of a packing plant at the Florida City State Farmers Market; providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

On motion by Senator Poston, HB 3965 was withdrawn from the Committee on Ways and Means by two-thirds vote and placed on the calendar.

On motion by Senator Poston, unanimous consent was obtained to take up HB 3965 out of order. On motions by Senator Poston, by two-thirds vote HB 3965 was read the second time by title and by two-thirds vote the third time by title, passed and certified to the House. The vote was:

Yeas—36

Mr. President	Graham	Myers	Stolzenburg
Barron	Gruber	Peterson	Sykes
Brantley	Henderson	Pettigrew	Vogt
Childers	Johnson	Plante	Ware
Firestone	Johnston	Poston	Weber
Gallen	Lane (31st)	Saunders	Williams
Gillespie	Lane (23rd)	Sayler	Wilson
Glisson	Lewis	Sims	Winn
Gordon	McClain	Smathers	Zinkil

Nays—None

On motion by Senator Poston the rules were waived and HB 3965 was immediately certified to the House.

## RECONSIDERATION

The motion by Senator Sykes that the Senate reconsider the vote by which SB 391 failed to pass on April 25, was taken up and adopted and the Senate reconsidered.

## SPECIAL ORDER

SCR 494—A concurrent resolution expressing regret at the passing of Senator Thomas E. David, Sr.

—was read the second time in full. The Senate stood in a moment of silent prayer in memory of Senator Thomas E. David, Sr., thereby reflecting the unanimous adoption of SCR 494.

Senators Horne, Barron, Brantley, Childers, Deeb, de la Parte, Firestone, Gallen, Gillespie, Glisson, Gordon, Graham, Gruber, Henderson, Johnson, Johnston, Lane (31st), Lane (23rd), Lewis, McClain, Myers, Peterson, Pettigrew, Plante, Poston, Saunders, Sayler, Sims, Smathers, Stolzenburg, Sykes, Trask, Vogt, Ware, Weber, Williams, Wilson and Winn were recorded as co-introducers of SCR 494.

The President introduced the following members of the family of the late Senator Thomas E. David, Sr.: Mrs. Thomas E. David, Sr.; Mr. and Mrs. John Manning, son-in-law and daughter; Mr. and Mrs. Jim Cameron, son-in-law and daughter; Dorothy and Meredith David, daughters; Thomas E. David, Jr., son; B. L., Sam, Claude, brothers; and Bill David, nephew. The President also introduced Representative William O. Birchfield and Doyle Conner, Commissioner of Agriculture, both of whom served with the late Senator Thomas E. David, Sr.



By Senators Scarborough, Barron, Brantley, Childers, Deeb, de la Parte, Firestone, Gallen, Gillespie, Glisson, Gordon, Graham, Gruber, Henderson, Horne, Johnson, Johnston, Lane (31st), Lane (23rd), Lewis, McClain, Myers, Peterson, Pettigrew, Plante, Poston, Saunders, Saylor, Sims, Smathers, Stolzenburg, Sykes, Trask, Vogt, Ware, Weber, Williams, Wilson, Winn and Zinkil—

## Senate Concurrent Resolution No. 494

A concurrent resolution expressing regret at the passing of Senator Thomas E. David, Sr.

WHEREAS, the Senate has learned with deep regret of the death of Senator Thomas E. David, Sr., and

WHEREAS, he was the devoted husband of Josephine Webb David and the father of a son, Ted, Jr., and four daughters, Larie (Mrs. John Manning), Susan (Mrs. James Cameron), Dorothy and Meredith, and

WHEREAS, his life was one of exemplary service to his state, community and nation, and

WHEREAS, we would honor his memory, express our bereavement, and extend our condolences to his family, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That this legislative body pause in its deliberations to pay its respects to Senator Thomas E. David, Sr., who passed away after suffering a heart attack in New Orleans on June 30, 1972, and that the Legislature in session assembled does hereby record this testimonial of esteem and bereavement:

### IN MEMORIAM

#### THOMAS EDWARD DAVID

who was born in Comer, Georgia, April 2, 1920 and moved to Hollywood, Florida at the age of three. After attending the public schools of Hollywood, young Ted, as he was affectionately known, was graduated with honors from the Riverside Military Academy. In 1942 he received his Bachelor of Business Administration degree from the University of Georgia and entered the United States Army. He served with distinction as a Captain of Infantry during World War II and upon completion of his military service enrolled at the University of Miami College of Law.

Before his graduation from law school in 1949, he was elected to the House of Representatives from Broward County and served four consecutive terms. He was elected Speaker of the House for the 1955 session, and thus became the youngest man to hold that position until that time. His delicate leadership of the House tempered the strong feelings running high in the 1955 session and won the admiration of many observers.

In 1956, Ted David served on the Constitutional Revision Commission and won the state Jaycee award as the man of the year. Although unsuccessful, he was a candidate for governor in 1960.

He was elected to the Florida Senate in 1961 and in 1963 served on the staff of Haydon Burns in his successful candidacy for the governorship and then joined the city government of Jacksonville as executive assistant to Mayor Lou Ritter. During his career in public service, he continued the private practice of law, first in Hollywood and later in Jacksonville.

Barely fifty-two at the time of his death, Ted David had contributed nearly thirty years to the service of his nation and state. While engaging in a busy private law practice he found time to contribute to the service of his community through the many civic organizations to which he belonged. He was a director of the Hollywood Chamber of Commerce, a member of the Benevolent and Protective Order of Elks, the Junior Chamber of Commerce, the Hollywood Pioneer Club, the Lions Club, the American Legion, the Veterans of Foreign Wars and the Amvets. A member of the First Presbyterian Church of Hollywood, he was a founder and trustee of Florida Presbyterian College. For more than twelve years he was attorney for the Broward County School Board.

His service in the Florida Legislature was outstanding. In the face of strong opposition he set up the system whereby legislators receive printed copies of bills for consideration thus vastly improving the efficiency of both houses of the legislature. The proxy vote in committees was eliminated through his efforts, he initiated the preparation, printing and distribution of booklets designed for school children who come to observe the Legislature, and he was the first legislative leader to arrange committee scheduling so that time conflicts were avoided and legislators could attend all such meetings. He was twice named outstanding legislator.

Senator David was taken from us in the prime of life, but it was a full life, a life devoted to accomplishment and public service. So, as we mourn his passing, let us remember with pride the accomplishments and exemplary life of Senator Thomas Edward David, lawyer, legislator, public servant and good citizen.

BE IT FURTHER RESOLVED that a copy of this resolution duly attested by the President and the Secretary of the Senate and by the Speaker and Clerk of the House of Representatives, and bearing the Great Seal of the State of Florida, be forwarded to the family of Senator Thomas E. David, together with the condolences of these legislative bodies.



On motion by Senator Scarborough, the rules were waived and SCR 494 was immediately certified to the House.

On motion by Senator Childers, the rules were waived and the Senate reverted to—

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Mallory E. Horne, President*

May 1, 1974

I am directed to inform the Senate that the House of Representatives has adopted HCR 3790 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By Representative Fortune and others—

**HCR 3790**—A concurrent resolution commending Mrs. Jewell Wells Golden for being designated "Florida's Mother of the Year for 1974."

—was read the first time by title and placed on the calendar.

SCR 699 was taken up and on motion by Senator Childers, HCR 3790 a companion measure was substituted therefor.

On motion by Senator Childers, by two-thirds vote HCR 3790 was read the second time in full, adopted and certified to the House. The vote was:

Yeas—37

Mr. President	Gruber	Pettigrew	Trask
Barron	Henderson	Plante	Vogt
Brantley	Johnson	Poston	Ware
Childers	Johnston	Saunders	Weber
Deeb	Lane (31st)	Sayler	Wilson
Firestone	Lane (23rd)	Scarborough	Winn
Gallen	Lewis	Sims	Zinkil
Gillespie	McClain	Smathers	
Gordon	Myers	Stolzenburg	
Graham	Peterson	Sykes	

Nays—None

SCR 699 was laid on the table.

The Senate resumed Special Order.

**SR 692**—A Senate resolution commending Mr. James L. Casale, of Naples, Florida teacher of the year 1974.

—was read the second time in full. On motion by Senator Lane (31st), SR 692 was unanimously adopted.

**SCR 625**—A concurrent resolution In Memoriam George Wilson Leaird

—was read the second time in full. On motion by Senator Zinkil, SCR 625 was adopted and certified to the House. The vote was:

Yeas—33

Mr. President	Johnson	Poston	Ware
Childers	Johnston	Saunders	Weber
Firestone	Lane (31st)	Sayler	Williams
Gallen	Lane (23rd)	Sims	Wilson
Gillespie	Lewis	Smathers	Winn
Gordon	Myers	Stolzenburg	Zinkil
Graham	Peterson	Sykes	
Gruber	Pettigrew	Trask	
Henderson	Plante	Vogt	

Nays—None

On motion by Senator Trask the rules were waived and privileges of the floor were accorded to Kirk Brown, member of the staff of the Committee on Consumer Affairs.

Senator Saunders presiding

**HB 2155**—A bill to be entitled An act relating to condominiums and cooperative apartments; amending §711.03(9), Florida Statutes, 1971, and adding new subsections, to define the terms "board of administration", "condominium property", and "de-

velopers"; amending §711.04(1), Florida Statutes, 1971, relating to the term "condominium parcel", to include certain leaseholds within its meaning; amending §711.06(1)(a), Florida Statutes, 1971, relating to the term "common elements", and adding a subsection to accommodate the use of a leasehold and to provide for the incorporation of recreation areas; amending §711.08, Florida Statutes, 1971, to incorporate the use of certain leaseholds and to provide for the contents of the declaration of creation; amending §711.10(3), Florida Statutes, 1971, relating to amendment of the declaration, to provide that a unit owner's share in common expenses and surplus may not be changed unless the unit owner joins in the amendment; amending §711.11(1) and (2), Florida Statutes, 1971, to provide for inclusion of certain provisions in the bylaws of a condominium; amending §711.12, Florida Statutes, 1971, to permit an association to operate more than one (1) condominium and to provide certain other powers for condominium associations; repealing §711.13(4), Florida Statutes, 1971, as amended, which relates to cancellation of contracts for maintenance, management, or operation of a condominium; amending §711.15(6), Florida Statutes, 1971, relating to assessment liability, to provide protection for certain purchasers at mortgage foreclosure sales; repealing §711.19(3), Florida Statutes, 1971, which relates to the application of homestead exemption from taxation; amending §711.20(1), Florida Statutes, 1971, to provide for notice of liens; redesignating §711.23, Florida Statutes, 1971, as §711.62 and amending said section to provide for obligations for unit owners and penalties for violations; repealing §711.24, Florida Statutes, 1972 Supplement, which relates to full disclosure prior to sale; redesignating §711.25, Florida Statutes, 1971, as §711.67 and amending said section to provide for the use of proceeds from the sale of condominiums and cooperative apartments prior to closing; repealing §§711.30, 711.31, and 711.32, all Florida Statutes, 1971, which relate to maintenance, disclosure prior to sale, and deposits for cooperative apartments; creating §§711.41, 711.42, 711.43, 711.44, 711.45, 711.46, and 711.47, Florida Statutes, relating to cooperative apartments; providing for cooperative parcels, appurtenances, possession, and enjoyment; providing for bylaws; providing for cooperative associations; providing for common expenses and common surplus; providing for assessments and liabilities; creating §§711.61, 711.63, 711.64, 711.65, 711.66, 711.68, 711.69, 711.70, and 711.71, Florida Statutes, relating to creation, sale and lease of condominiums and cooperative apartments; providing for contents of leases; providing that rent payable under certain leases shall not be secured by a lien on a residential unit; providing for completion of phase projects; providing warranties at sale; providing for transfer of association control; providing for contents of prospectuses; providing for disclosure; providing for publication of false or misleading information; declaring recreational leases void as against public policy; providing an effective date.

—was read the second time by title.

The Committee on Consumer Affairs offered the following amendment which was moved by Senator Trask:

**Amendment 1**—Strike all after the enacting clause and insert:

Section 1. Section 711.03(3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14) Florida Statutes, are renumbered as subsections (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15) and (16) respectively, new subsections (3), (12) and (17) are added and subsections (7), (9) and (13) of said section are renumbered and amended to read:

**711.03 Definitions.**—As used in this law:

(3) *Board of administration* means the board of directors or other representative body responsible for administration of the association.

(7) (8) *Condominium* is that form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.

(10) *Condominium property* means and includes the lands and leaseholds that are subjected to condominium ownership, land in a condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(12) *Developer* means a person who creates a condominium, or who offers condominium parcels owned by him for sale or

By Senators Zinkil, Lane (31st), Stolzenburg, Weber and Scarborough—

## SCR 625 A Concurrent Resolution In Memoriam George Wilson Leaird

WHEREAS, there was found in legislative halls for a period of time a man of undoubted courage, keen insight, and unswerving dedication to his county, state and nation, and

WHEREAS, we would honor his memory and record our condolences upon his demise, January 6, 1974, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That this resolution be enrolled upon the Journals of the Senate and the House of Representatives of the State of Florida—

### IN MEMORIAM

#### GEORGE WILSON LEAIRD

—who was born in Fort Lauderdale, Florida, on June 13, 1912, the son of Broward County pioneers, W. C. and Inez (Yount) Leaird. He attended the public schools of Broward County, and was graduated from Fort Lauderdale High School in 1928, where he served as president of both his senior class and the student body. He studied at the University of Florida and continued on to earn his law degree from the university in 1935. In that same year he returned to Broward County and opened a law practice in Hollywood.

In 1938, Leaird sought and won the first of three terms as one of Broward's two state representatives. In the House, he served on the judiciary committee and campaigned for more state aid for cities. He interrupted his legislative career in 1943 when he waived his immunity from Selective Service and became a Navy officer. He retired as a lieutenant after serving in North Africa, Sicily, Italy and France.

On his return from the war, Leaird found that the legislature had been realigned, giving Broward its own state senator for the first time. Leaird ran for the seat and won. During his eight years in the Senate his biggest concern was education. To help finance the state's schools, he became a leader in the fight to adopt a sales tax. He also worked tirelessly for the construction of Florida's Turnpike and sought aid for the University of Miami's medical school. He served on a joint legislative committee to formulate a tax program in 1949, and four years later, in his final session, he was senate president pro tempore.

Always fighting for causes in which he believed, Leaird demonstrated to those who knew him yet another type of courage when he suffered a serious hip and leg injury while in Tallahassee. Doctors at Mayo Clinic wanted to amputate the leg and told Leaird he would never walk again. Leaird kept the leg, walked again, and even went back to playing golf, a game at which he had excelled as a teen-ager, winning many local championships.

In 1954, he returned to his private law practice but remained active in public affairs, filling in occasionally as city attorney for Fort Lauderdale. Earlier in his career he had been attorney for both the City of Hollywood and the Broward County School Board.

Among his affiliations were Phi Delta Phi legal fraternity, Sigma Alpha Epsilon social fraternity, American Legion, Veterans of Foreign Wars, Amvets, and Lions.

BE IT FURTHER RESOLVED that copies of this concurrent resolution, duly attested, together with the commiseration of these bodies, be presented to the family of our esteemed former colleague, George Wilson Leaird.

lease in the ordinary course of business, except that the term developer shall not include the owners or lessees of units in condominiums who offer the units for sale or lease or their leasehold interests for assignment, when they have acquired or leased the units for their own occupancy. This definition shall be construed liberally to accord substantial justice to a unit owner or lessee.

~~(13)~~ (15) Unit means a part of the condominium property which is to be subject to private ownership. A unit may be in improvements, land, or land and improvements together, as specified in the declaration.

(17) Residential condominium means a condominium comprising condominium units any of which are intended for use as a private residence, domicile or homestead, except that a condominium shall not be deemed a residential condominium if the use for which the units are intended is primarily commercial or industrial and not more than three (3) units are intended to be used for private residence, domicile or homestead and are intended to be used as housing for maintenance, managerial, janitorial or other operational staff of the condominium. In the event that a condominium shall be a residential condominium under the definition herein contained, but otherwise have units whose use is intended to be commercial or industrial, then in such case the condominium shall be deemed a residential condominium with respect to those units which are intended for use as a private residence, domicile or homestead, but not a residential condominium with respect to those units which are intended for use commercially or industrially.

Section 2. Subsection (1) of section 711.04, Florida Statutes, is amended to read:

711.04 Condominium parcels; appurtenances; possession and enjoyment.—

(1) A condominium parcel is a separate parcel of real property, even though a leasehold, the ownership of which may be in fee simple, or any other estate in real property recognized by law.

Section 3. Paragraph (a) of subsection (1) of section 711.06, Florida Statutes, is amended and subsection (3) is added to said section to read:

711.06 Common elements.—

(1) Common elements includes within its meaning the following items:

(a) The land or leasehold on which the improvements are located and any other land or leasehold included in the condominium property whether or not contiguous.

(3) The common elements designated by the declaration may be enlarged by an amendment of the declaration that includes the description of land owned by the association and submits the land to the terms of the declaration. The amendment shall be approved and executed in the manner required by the declaration and shall be executed by the association. Such an amendment shall divest the association of title to the land and shall vest the title in the unit owners, without naming them and without further conveyance, in the same undivided shares as the undivided shares in the common elements that are appurtenant to the units owned by them.

Section 4. Section 711.08, Florida Statutes, is amended to read:

711.08 Creation of condominiums; contents of declaration.—

(1) A condominium may be created on lands owned in fee simple or held under a lease, that contains the provisions required by §711.63, having a term initially in excess of ninety-eight (98) years and having an unexpired term of fifty (50) years or more by recording in the public records of the county wherein the land to be included is located a declaration executed with the formalities of a deed by all persons having title of record to the interest in such land being submitted to condominium ownership and all persons having any interest under mortgages of record that encumber any portion of the common elements that are not satisfied prior to the closing of any sales of units, except that in lieu of joining in the execution of the declaration the owner of interests being submitted and the mortgagee thereof may execute appropriate consents or subordination agreements with the formalities required for

deeds, or equitable ownership under such a leasehold interest as specified herein, which The declaration shall contain or provide for the following matters:

(a) A statement submitting the condominium property to condominium ownership.

(b) The name by which the condominium is to be identified, which name shall include the word condominium or be followed by the words a condominium.

(c) Legal description of the land or leasehold included.

(d) An identification of each unit by letter, name, or number, or combination thereof, so that no unit bears the same designation as any other unit.

(e) Survey of the land and a graphic description of the improvements in which units are located and a plot plan thereof which together with the declaration are in sufficient detail to identify the common elements and each unit and their relative locations and approximate dimensions. Such survey, plot plan and description may be in the form of exhibits consisting of building plans, floor plans, maps, sketches, surveys or other means, provided that there shall be included or attached a certificate or certificates of an architect, engineer or surveyor authorized to practice in this state that the construction of the improvements described is sufficiently complete so that such material, together with the wording of the declaration, is a correct representation of the improvements described, and that there can be determined therefrom the identification, location, and dimensions and size of the common elements and of each unit.

(f) Creation of easements for ingress and egress, which may be exclusive or non-exclusive, over such streets, walks and other rights-of-way serving the units of a condominium as part of the common elements as shall be necessary to provide reasonable access to the public ways, or a dedication of such streets, walks and other rights-of-way to the public. In the event that said easements for ingress and egress shall be encumbered by leasehold or lien, other than those on the condominium parcels, such leaseholds or liens shall be required to be subordinate or made subordinate to the use rights of any condominium unit owner or owners whose condominium parcel is not also encumbered by said lien or leasehold, or in the alternative, an appropriate non-disturbance agreement may be executed and recorded providing at least in part that the use rights shall not be terminated with respect to any unit owner or owners who in the case of the leasehold have not been evicted for reason of their default under the lease and in the case of a mortgage whose units have not been foreclosed for default.

~~(g)~~ (f) The undivided shares, stated as percentages or fractions, in the common elements which are appurtenant to each of the units.

~~(h)~~ (g) The proportions or percentages and manner of sharing common expenses and owning common surplus.

~~(i)~~ (h) Voting rights of owners of units.

~~(j)~~ (i) Method of amendment of declaration. If a declaration fails to provide a method of amendment, the declaration may be amended if the amendment is approved by owners of not less than two thirds (2/3) of the units.

~~(j)~~ (k) Bylaws, but defects or omissions in the bylaws shall not affect the validity of the condominium or the title of condominium parcels.

~~(k)~~ (l) The name of the association and whether or not it is incorporated. If the association is not incorporated, the name and residence address of the person designated as agent to receive service of process upon the association. Such agent must be a resident of the state.

~~(l)~~ (m) Such other provisions not inconsistent with this law as may be desired, including but not limited to those relating to amendment of the declaration, values of the condominium property and of each unit or condominium parcel, statement of purpose for which condominium property and units are intended, designation of limited common elements, responsibility for maintenance and repair of units, insuring of the condominium property against loss and the owners and association against liability, reconstruction or repair after casualty and votes required in connection therewith, use restrictions, limitation upon conveyance, sale, leasing, purchase, ownership and occupancy of units, termination of the condominium.

(2) The declaration provided by subsection (1) may include such covenants and restrictions concerning the use, occupancy and transfer of the units as are permitted by law with reference to real property; provided, however, that the rule of property known as the rule against perpetuities shall not be applied to defeat a right given any person or entity by the declaration for the purpose of allowing unit owners to retain reasonable control over the use, occupancy and transfer of units. *If the transfer of units is subject to approval of any body, no fee shall be charged in connection with a transfer or approval in excess of the expenditures reasonably required for credit report expense, and this expense shall not exceed fifty dollars (\$50). No charge shall be made in connection with an extension or renewal of a lease.*

(3) *A person who joins in the execution of a declaration subjects his interest in the condominium property to the the provisions of the declaration and the provisions of this chapter.*

~~(3)~~ (4) All valid provisions of the declaration shall be enforceable equitable servitudes and shall run with the land and shall be effective until the declaration is revoked.

Section 5. Subsection (3) of section 711.10, Florida Statutes, is amended to read:

#### 711.10 Amendment of declaration.—

(3) Unless otherwise provided in the declaration as originally recorded, no amendment shall change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to such unit, nor change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus, ~~any condominium parcel~~ unless the record owner thereof and all record owners of liens thereon shall join in the execution of the amendment. *If it shall appear through scrivener's error that all of the common expenses or interest in the common surplus, or all of the common elements in the condominium have not been distributed in the declaration, such that the sum total of the shares of common elements which have been distributed or the sum total of the shares of the common expenses or ownership of common surplus fail to equal one hundred percent (100%) (or if it shall appear that through such error more than one hundred percent (100%) of common elements or common expenses or ownership of the common surplus shall have been distributed) such error may be corrected by the filing of an amendment to the declaration executed by the association, and the owners of the units and the owners of liens thereon for which modifications in the shares of common elements or shares of common expense or the common surplus are being made. No other unit owner shall be required to join in or execute such an amendment.*

Section 6. Subsections (1) and (2) of section 711.11, Florida Statutes, are amended to read:

#### 711.11 Bylaws.—

(1) The administration of the association and the operation of the condominium property shall be governed by bylaws, which shall be set forth in or annexed to the declaration. No modification of or amendment to the bylaws shall be valid unless set forth in or annexed to a duly recorded amendment to the declaration.

(2) The bylaws shall provide for the following matters, and if they do not do so, the bylaws shall be deemed to include the following matters:

(a) The form of administration of the association shall be described, indicating the title of the officers and board of administration, ~~if any~~, and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. *In the absence of such a provision, the board of administration shall be composed of five (5) members, except in the case of condominiums having five (5) or fewer units, in which case one (1) owner of each unit shall be a member of the board of administration. In the absence of provisions to the contrary contained in the bylaws, the board of administration shall have a president, a secretary and a treasurer, who shall perform the duties of such offices customarily performed by like officers of corporations in the state of Florida, such officers shall serve without compensation and at the pleasure of the board of administration. Furthermore, the board of*

*administration, in the absence of a provision in the bylaws to the contrary, may appoint and designate other officers and grant them such duties as it deems appropriate.*

(b) ~~Method of calling or summoning unit owners to assemble at meetings; the percentage of unit owners or voting rights required to make decisions, and to constitute a quorum. The foregoing requirements as to meetings are not to be construed, however, to prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, if so provided in the bylaws, the declaration or this law.~~

(b) The percentage of unit owners or voting rights required to make decisions and to constitute a quorum shall be stated; and in the absence of such provisions the owners of a majority of the units shall constitute a quorum, and decisions shall be made by owners of a majority of the units represented at a meeting at which a quorum is present.

(c) Meetings of the board of administration shall be open to all unit owners and notice of meetings shall be posted conspicuously forty-eight (48) hours in advance for the attention of unit owners except in an emergency.

(d) Unit owners shall meet at least once in each calendar year and such meeting shall be the annual meeting. Unless the bylaws shall provide for their election at another meeting, the annual meeting shall be the time of the election of members of the board of administration whose terms have expired. In the absence of a provision in the bylaws setting forth the terms of some or all of the members of the board of administration which shall expire, the terms of all members of the board of administration shall expire on the date of the annual meeting, upon the election of their successors. The bylaws shall provide the method of calling and summoning the unit owners to assemble at meetings, including annual meetings, which method shall require at least fourteen (14) days written notice to each unit owner in advance of the meeting, and the posting at a conspicuous place on the condominium property a notice of the meeting at least fourteen (14) days prior to said meeting. In the absence of a provision to the contrary, the notice of the annual meeting shall be sent by certified mail to each unit owner, which mailing shall be deemed notice. The foregoing requirements as to meetings are not to be construed, however, to prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, if so provided in the bylaws, the declaration of condominium, or this law.

(e) Minutes of all meetings of unit owners and of the board of administration shall be kept in a businesslike manner and available for inspection by unit owners and board members at all reasonable times.

(f) A copy of a proposed annual budget of common expenses shall be mailed to the unit owners not less than thirty (30) days prior to the meeting at which the budget will be considered, together with a notice of that meeting. If the bylaws or declaration provide that the budget may be adopted by the board of administration, then the unit owners shall be given written notice of the time and place at which such meeting of the board of administration to consider the budget shall be held, and such meeting shall be open to the unit owners. If a budget is adopted by the board of administration which requires assessment against the unit owners in any fiscal or calendar year exceeding 115% of such assessments for the preceding year, upon written application of ten (10%) percent of the unit owners, a special meeting of the unit owners shall be held upon not less than ten (10) days written notice to each unit owner, but within thirty (30) days of the delivery of such application to the board of administration or any member thereof, at which special meeting unit owners may consider and enact a revision of the budget, or recall any and all members of the board of administration and elect their successors. In either case, unless the bylaws shall require a larger vote, the revision of the budget or the recall of any and all members of the board of administration shall require a vote of not less than a majority of the whole number of votes of all unit owners. The board of administration may in any event propose a budget to the unit owners at a meeting of members or by writing, and if such budget or proposed budget be approved by the unit owners at the meeting, or by a majority of their whole number by a writing, such budget shall not thereafter be reexamined by the unit owners in the manner hereinabove set forth nor shall the board of administration be recalled under the terms of this section. In determin-

ing whether assessments exceed 115% of similar assessments in prior years, there shall be excluded in the computation any provision for reasonable reserves made by the board of administration in respect of repair or replacement of the condominium property or in respect of anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis and there shall be excluded from such computation, assessment for betterments to the condominium property if the bylaws so provide or allow the establishment of reserves, or assessments for betterments to be imposed by the board of administration. Provided, however, that so long as the developer is in control of the board of administration the board shall not impose an assessment for a year greater than 115% of the prior fiscal or calendar year's assessment without approval of a majority of the unit owners.

~~(e)~~ (g) Manner of collecting from the unit owner their shares of the common expenses shall be stated. Assessments shall be made against unit owners not less frequently than quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expense previously incurred.

~~(d)~~ (h) The method by which the bylaws may be amended consistent with the provisions of this law shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by owners of not less than two thirds (2/3) of the units.

Section 7. Section 711.12, Florida Statutes, is amended to read:

711.12 The association.—

(1) The operation of the condominium shall be by the association, the name of which shall be stated in the declaration. The declaration may require the association to be organized as a particular entity, such as but not limited to a corporation for profit or corporation not for profit, in which the owners of units shall be stockholders or members. The officers and directors of the association shall have a fiduciary relationship to the unit owners. An association may operate more than one (1) condominium.

(2) The association, whether or not incorporated, shall be an entity which shall act through its officers and shall have the capability of contracting, bringing suit and being sued, with respect to the exercise or nonexercise of its powers. For these purposes the powers of the association shall include, but not be limited to, the maintenance, management and operation of the condominium property. When the board of administration is not controlled by the developer the association shall have authority and the power to maintain a class action and to settle a cause of action on behalf of unit owners of a condominium with reference to the common elements, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit. In any case in which the association has the authority and the power to maintain a class action, the association may be joined in an action as representatives of that same class with reference to litigation and disputes involving the matters for which the association could bring a class action. If not incorporated the association shall be deemed to be an entity existing pursuant to this act and shall have power to execute contracts, deeds, mortgages, leases and other instruments by its officers, and to own, convey and encumber real and personal property. Service of process upon the association if not incorporated may be had by serving any officer of the association or by serving the agent designated for the service of process. Service of process upon the association shall not constitute service of process upon any unit owner.

(3) No unit owner, except as an officer of the association, shall have any authority to act for the association.

~~(4)~~ Unless limited by the declaration the powers and duties of the association shall include those set forth in this law. The powers and duties of the association shall include also those set forth in the declaration and bylaws, not inconsistent with this section.

(5) The association shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements therein or accessible therefrom,

or for making emergency repairs therein necessary to prevent damage to the common elements or to another unit or units.

(6) The association shall have the power to make and collect assessments, and to lease, maintain, repair and replace the common elements.

(7) The association shall maintain accounting records according to good accounting practices which shall be open to inspection by unit owners or their authorized representatives at reasonable times and written summaries of which shall be supplied at least annually to unit owners or their authorized representatives. Failure of the association to permit inspection of its accounting records by unit owners or their authorized representatives shall entitle any person prevailing in an action for enforcement to recover reasonable attorney fees from the association. ~~annually to unit owners.~~ Such records shall include:

(a) A record of all receipts and expenditures.

(b) An account for each unit which shall designate the name and address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due.

(8) The association, whether or not incorporated, shall have the power unless prohibited by the declaration of condominium, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage and convey the same.

(9) In any legal action in which the association may be exposed to liability in excess of insurance coverage protecting it and the unit owners, the association shall give notice of the exposure within a reasonable time to all unit owners who may be exposed to the liability and they shall have the right to intervene and defend.

(10) A copy of each insurance policy obtained by the association shall be made available for inspection by unit owners at reasonable times.

Section 8. Subsection (4) of section 711.13, Florida Statutes, as created by chapter 70-274, Laws of Florida, and as amended by chapter 71.277, Laws of Florida, is hereby repealed.

Section 9. Subsection (6) of section 711.15, Florida Statutes, is amended to read:

711.15 Assessments; liability; lien and priority; interest; collection.—

(6) Where the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or if the declaration so provides, as a result of a deed given in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessments by the association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which became due prior to acquisition of title as a result of the foreclosure, unless such share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such acquirer, his successors and assigns. If the declaration so provides, the foregoing provision may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure or a deed in lieu of foreclosure, may not during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

(8) Except as provided for in subsection (6) above, and in this subsection, no unit owner may be excused from the payment of his proportionate share of the common expense of a condominium unless all unit owners are likewise proportionately excused from such payment, except in the following cases:

(a) A developer or other person owning condominium units offered for sale may, if the declaration so provides, be excused from the payment of the share of the common expenses and assessments related thereto for a period subsequent to the recording of the declaration of condominium and terminating not later than the first day of the fourth calendar month following



the month in which such declaration is recorded, or for a period terminating with the first day of the month of the third succeeding calendar month after the closing of the purchase and sale of any condominium unit within the condominium to a unit owner who is not the developer, the nominee of the developer, or a substitute or alternative developer, whichever shall be the later date; or,

(b) A developer or other person owning condominium units may be excused from the payment of his or its share of the common expense in respect of those units during such period of time that he or it shall have guaranteed that the assessment for common expenses of the condominium, imposed upon the unit owners other than the developer or such person making the guarantee, shall not increase over a stated dollar amount, and obligate himself or itself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners.

Section 10. Subsection (3) of section 711.19, Florida Statutes, is hereby repealed.

Section 11. Subsection (1) of section 711.20, Florida Statutes, is amended to read:

#### 711.20 Liens.—

(1) Subsequent to recording the declaration and while the property remains subject to the declaration, no liens of any nature shall thereafter arise or be created against the condominium property as a whole except with the unanimous consent of the unit owners. During such period liens may arise or be created only against the several condominium parcels, except that no lien for rent under a lease subject to the requirements of §711.63 shall be enforceable. Attorney's fees for enforcement of a lien for rent shall be allowed only if final judgment is entered in enforcement proceedings thereon.

Section 12. Section 711.23, Florida Statutes, is redesignated as section 711.62 and amended to read:

~~711.62 711.23~~ *Obligations; Remedies* remedies for violation; restrictions upon waiver.—

(1) Each unit owner and each association shall be governed by and shall comply with this law and the declaration and bylaws or cooperative documents as they may exist from time to time. Failure to do so shall entitle the association or any other unit owner to recover sums due for damages or injunctive relief or both. Such actions may be maintained by or against a unit owner or the association or in a proper case by an aggrieved or against one or more unit owners, and the prevailing party shall be entitled to recover reasonable attorney fees. Such relief shall not be exclusive of other remedies provided by law.

(2) A provision of this chapter may not be waived if the waiver would adversely affect the rights of a unit owner or the purpose of the provision, except that unit owners or members of a board of administration may waive notice of meetings in writing at or after said meeting in the manner permitted by law or under the terms of the declaration of condominium, the bylaws of the association, or, if the condominium association be incorporated, under the provisions of the corporate charter. Any instructions given in writing by the unit owner to an escrow agent may be relied upon by an escrow agent whether or not such instruction and the payment of funds might thereunder constitute a waiver of any provision of this chapter.

Section 13. Section 711.24, Florida Statutes, as created by chapter 70-274, Laws of Florida, and amended by chapters 71-277 and 72-201, Laws of Florida, is hereby repealed.

Section 14. Section 711.25, Florida Statutes, is redesignated as section 711.67 and amended to read:

~~711.25 711.67~~ *Deposits* Sales; use of proceeds prior to closing.—

(1) If a developer contracts to sell a condominium or cooperative parcel in a building that has not been completed, established, furnished and landscaped substantially in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, and if there is no payment and performance bond in the amount of the construction contract price that covers such completion and equipping, the developer shall establish an escrow with a bank or

trust company having trust powers, an attorney who is a member of the Florida Bar or a title company authorized to do business in the state of Florida, with whom shall be deposited all payments received by the developer from the buyer of such parcel upon the sale price of the parcel until the amount deposited shall equal five percent (5%) of the sale price. The escrowed funds may be deposited in separate accounts, or in common escrow or trust accounts or commingled with other escrow or trust monies handled by or received by the escrow agent. The conditions for the release of funds from the escrow shall conform to the following:

(a) Funds deposited from payments made by a buyer who properly voids his contract shall be paid to the buyer free of all costs of the escrow.

(b) Prior to the closing of the transaction of purchase and sale, no funds shall be paid to the developer from the escrowed funds except in case of default by buyer.

(c) The escrow agent may disburse the escrowed funds paid or deposited by the buyer at or after the closing of the transaction of the purchase and sale of the parcel in accordance with written instructions from the buyer.

(d) Unless the funds of a buyer have been previously disbursed in accordance with the provisions of this subsection (1), such funds shall be disbursed to the developer by the escrow agent upon the expiration of six (6) months after the closing of the transaction of sale and purchase, unless prior to such disbursement the escrow agent has received from the buyer written notice of a dispute between buyer and developer.

(e) If the escrow funds shall earn interest, the interest shall be paid or credited to the developer if he is entitled to receive the principal, or paid to the buyer if he properly voids the contract and is entitled to return of the principal. The reasonable expenses incurred by the escrow agent in discharging his duties shall be an expense of the escrow.

~~(1) (2)~~ Whenever money shall be deposited or advanced paid to a developer on a contract for the purchase of a condominium unit prior to the filing of a notice of commencement for the condominium project pursuant to part I of chapter 713, such money or cooperative parcel prior to commencement of construction such money in excess of five percent (5%) of the sale price of the parcel shall be held in a special account by the seller developer or his duly authorized agent and shall not be commingled with the funds of the seller or his agent prior to the filing of a notice of commencement used by developer prior to closing of the transaction, except as provided in subsection (3), or for refund for the buyer. If such money shall remain in this special account for more than three months and if it shall earn interest, the interest so earned shall be added to the principal and paid or credited to the buyer or seller developer, as the case may be, who is entitled to receive the principal upon closing or upon breach of the contract.

~~(2) (3)~~ When a notice of commencement is filed for the condominium project pursuant to part I of chapter 713, the construction of improvements has commenced, and if the contract for sale of the condominium unit or cooperative parcel so provides, the developer of the condominium project may withdraw such advance deposits funds from the special account and use such sums funds in the actual construction and development of the condominium or cooperative property in which the apartment unit to be sold is located, except that no part of such funds may be used for salaries of salesmen, commissions or expenses of salesmen, or for advertising purposes. In every such case when the contract permits use of the advance payments or deposits upon a sales contract for such purposes, there shall be printed or clearly stamped on the face of the contract and also immediately above the place for signature of the buyer the following legend: ADVANCE PAYMENTS MADE PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER. This legend shall be conspicuously printed or stamped in bold-face bold-faced capital type as large as or larger than the largest type used in the text of the contract but in no event less than 20 point type. Failure to comply with the provisions of this subsection shall render the contract voidable at the option of the buyer, and all sums deposited or advanced under the contract shall be refunded with interest thereon at the highest rate then being paid on savings accounts, not inclusive of certificates of deposit, by savings and loan associations in the area in which the condominium or cooperative property is lo-

cated. However, nothing herein shall be construed as vesting in the buyer any lien rights not otherwise provided by law or contract.

(3) (4) If a developer fails to establish the escrow required by subsection (1) or if any portion of the funds so withdrawn from the special account required by subsection (2) is used by the developer prior to closing of the transaction for any purpose other than as provided herein, with intent to defraud the prospective buyer, the developer shall be deemed guilty of embezzlement and upon conviction shall be punished in a manner provided by law.

Section 15. Sections 1, 2, and 3 of chapter 70-135, Laws of Florida, appearing as sections 711.30, 711.31, and 711.32, Florida Statutes, are hereby repealed.

Section 16. Sections 711.41, 711.42, 711.43, 711.44, 711.45, 711.46, and 711.47, Florida Statutes, are created to read:

711.41 Application of §§711.42-711.47.—The provisions of §§711.42 through 711.47 apply to cooperative ownership.

711.42 Definitions.—As used in §§711.43 through 711.47:

(1) Assessment means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

(2) Association means the entity that owns the record title or a leasehold of the property of a cooperative and that is responsible for the operation of the cooperative.

(3) Board of administration means the board of directors or other representative body responsible for administration of the association.

(4) Bylaws means the bylaws for the government of the cooperative as they exist from time to time.

(5) Common areas means the portions of the cooperative property not included in the units.

(6) Common expenses means the expenses for which the unit owners are liable to the association.

(7) Common surplus means the excess of all receipts of the association, including but not limited to assessments, rents, profits and revenues on account of the common areas, over the amount of common expenses.

(8) Cooperative is that form of ownership of improved property under which units are subject to ownership by one (1) or more owners, which ownership is evidenced by a lease or other muniment of title or possession granted by the association as the owner of the cooperative property.

(9) Cooperative documents means the documents that create a cooperative, including but not limited to articles of incorporation of the association, bylaws, the ground lease or other underlying lease, if any, the document evidencing a unit owner's membership or share in the association, and the document recognizing a unit owner's title or right of possession of his unit.

(10) Cooperative parcel means a unit together with the undivided share in the assets of the association that is appurtenant to the unit.

(11) Cooperative property means the property subject to cooperative ownership and all other property owned by the association.

(12) Developer means a person who creates a cooperative, or who offers cooperative parcels owned by him for sale or lease in the ordinary course of business, except that the term developer shall not include the owners or lessees of units in cooperatives who offer the units for sale or lease or their leasehold interests for assignment, when they have acquired or leased the units for their own occupancy. This definition shall be construed liberally to accord substantial justice to a unit owner or lessee.

(13) Operation, or operation of the cooperative, means and includes the administration and management of the cooperative property.

(14) Unit means a part of the cooperative property which is to be subject to private ownership. A unit may be improvements, land, or land and improvements together as specified in the cooperative documentation.

(15) Unit owner or owner of a unit means the person holding a lease or other muniment of title or possession of a unit that is granted by the association as the owner of the cooperative property.

(16) Residential cooperative means a cooperative comprising cooperative units any of which are intended for use as a private residence, domicile or homestead, except that a cooperative shall not be deemed a residential cooperative if the use for which the units are intended is primarily commercial or industrial and not more than three (3) units are intended to be used for private residence, domicile or homestead and are intended to be used as housing for maintenance, managerial, janitorial or other operational staff of the cooperative. In the event that a cooperative shall be a residential cooperative under the definition herein contained, but otherwise have units whose use is intended to be commercial or industrial, then in such case the cooperative shall be deemed a residential cooperative with respect to those units which are intended for use as a private residence, domicile or homestead, but not a residential cooperative with respect to those units which are intended for use commercially or industrially.

711.43 Cooperative parcels; appurtenances; possession and enjoyment.—

(1) A cooperative parcel is a unit and its appurtenances.

(2) There shall pass with a unit as appurtenances thereto:

(a) Evidence of membership or of ownership of shares or of other interest in the association.

(b) An undivided share in the assets of the association.

(c) The exclusive right to use such portion of the common areas as may be provided by the cooperative documents.

(d) The undivided share in the common surplus attributable to the unit.

(e) Such other appurtenances as may be provided in the cooperative documents.

(3) The owner of a unit is entitled to the exclusive possession of his unit. He shall be entitled to use the common areas in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units.

711.44 Bylaws.—

(1) The bylaws or other cooperative documents shall provide for the following matters, and if they do not do so, the bylaws shall be deemed to include the following matters:

(a) The form of administration of the association shall be described, indicating the title of the officers and board of administration, and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five (5) members, except in the case of cooperatives having five (5) or fewer units, in which case one (1) owner of each unit shall be a member of the board of administration. In the absence of provisions to the contrary contained in the bylaws, the board of administration shall have a president, a secretary and a treasurer, who shall perform the duties of such offices customarily performed by like officers of corporations in the State of Florida, and such officers shall serve without compensation and at the pleasure of the board of administration. Furthermore, the board of administration, in the absence of a provision in the bylaws to the contrary, may appoint and designate other officers and grant them such duties as it deems appropriate.

(b) The percentage of unit owners or voting rights required to make decisions and to constitute a quorum shall be stated; and in the absence of such provisions, the owners of a majority of the units shall constitute a quorum, and decisions shall be made by owners of a majority of the units represented at a meeting at which a quorum is present.

(c) Meetings of the board of administration shall be open to all unit owners and notice of meetings shall be posted conspicuously forty-eight (48) hours in advance for the attention of unit owners except in an emergency.

(d) Unit owners shall meet at least once in each calendar year and such meeting shall be the annual meeting. Unless the



bylaws shall provide for their election at another meeting, the annual meeting shall be the time of the election of the members of the board of administration whose terms have expired. In the absence of a provision in the bylaws setting forth the terms of some or all of the members of the board of administration which shall expire, the terms of all members of the board of administration shall expire on the date of the annual meeting upon the election of their successors. The bylaws shall provide the method of calling and summoning the unit owners to assemble at meetings, including annual meetings, which method shall require at least fourteen (14) days written notice to each unit owner in advance of the meeting, and the posting at a conspicuous place on the cooperative property a notice of the meeting at least fourteen (14) days prior to said meeting. In the absence of a provision to the contrary, the notice of the annual meeting shall be sent by certified mail to each unit owner, which mailing shall be deemed notice. The foregoing requirements as to meetings are not to be construed, however, to prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, if so provided in the bylaws, the other cooperative documents, or this law.

(e) Minutes of all meetings of unit owners and of the board of administration shall be kept in a businesslike manner and available for inspection by unit owners and board members at all reasonable times.

(f) A copy of a proposed annual budget of common expenses shall be mailed to the unit owners not less than thirty (30) days prior to the meeting at which the budget will be considered, together with a notice of that meeting. If the bylaws or other cooperative documents provide that the budget may be adopted by the board of administration, then the unit owners shall be given written notice of the time and place at which such meeting of the board of administration to consider the budget shall be held, and such meeting shall be open to the unit owners. If a budget is adopted by the board of administration which requires assessment against the unit owners in any fiscal or calendar year exceeding 115% of such assessments for the preceding year, upon written application of ten (10%) percent of the unit owners, a special meeting of the unit owners shall be held upon not less than ten (10) days written notice to each unit owner, but within thirty (30) days of delivery of such application to the board of administration or any member thereof, at which special meeting unit owners may consider and enact a revision of the budget, or recall any and all members of the board of administration and elect their successors, unless at that time the developer is in control of the board of administration. In either case, unless the bylaws shall require a larger vote, the revision of the budget or the recall of any and all members of the board of administration shall require a vote of not less than a majority of the whole number of votes of all unit owners. The board of administration may in any event propose a budget to the unit owners at a meeting of members or by writing, and if such budget or proposed budget be approved by the unit owners at the meeting, or by a majority of their whole number by a writing, such budget shall not thereafter be examined by the unit owners in the manner hereinabove set forth, nor shall the board of administration be recalled under the terms of this section. In determining whether assessments exceed 115% of similar assessments for prior years, there shall be excluded in the computation any provision for reasonable reserves made by the board of administration in respect of repair or replacement of cooperative property or in respect of anticipated expenses by the association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded from such computation, assessment for betterments to the cooperative property if the bylaws so provide or allow the establishment of reserves, or assessments for betterments to be imposed by the board of administration. Provided, however, that so long as the developer is in control of the board of administration, the board shall not impose an assessment for a year greater than 115% of the prior fiscal or calendar year's assessment without approval of a majority of the unit owners.

(g) The manner of collecting from the unit owners their shares of the common expenses shall be stated. Assessments shall be made against unit owners not less frequently than quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current operating expense and for all of the unpaid operating expense previously incurred.

(h) If the transfer of units is subject to approval of any body, no fee shall be charged in connection with a transfer or

approval in excess of the expenditures reasonably required for credit report expense, and this expense shall not exceed fifty dollars (\$50). No charge shall be made in connection with an extension or renewal of a lease.

(i) The method by which the bylaws may be amended consistent with the provisions of this law shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by owners of not less than two thirds (2/3) of the units.

(2) The bylaws may provide for the following:

(a) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas.

(b) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common areas, not inconsistent with the cooperative documents, as are designed to prevent unreasonable interference with the use of the units and common areas.

(c) Such other provisions not inconsistent with this law or with the cooperative documents as may be desired.

711.45 The association.—

(1) The operation of the cooperative shall be by the association, which may be organized as a corporation for profit or corporation not for profit, in which the owners of units shall be stockholders or members.

(2) The association shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any structural components of the building or any mechanical, electrical or plumbing elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the building or to another unit or units.

(3) The association shall maintain accounting records according to good accounting practices which shall be open to inspection by unit owners or their authorized representatives at reasonable times and written summaries of which shall be supplied at least annually to unit owners or their authorized representatives. Failure of the association to permit inspection of its accounting records by unit owners or their authorized representatives shall entitle any person prevailing in an action for enforcement to recover reasonable attorney fees from the association. Such records shall include:

(a) A record of all receipts and expenditures.

(b) An account for each unit which shall designate the name and address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due.

(4) A copy of each insurance policy obtained by the association shall be made available for inspection by unit owners at reasonable times.

711.46 Common expenses and common surplus.—

(1) Common expenses shall include the expenses of the operation, maintenance, repair, or replacement of the cooperative property, costs of carrying out the powers and duties of the association and any other expense designated as common expense by this law, or the cooperative documents.

(2) Funds for the payment of common expenses shall be assessed against unit owners in the proportions or percentages of sharing common expenses provided in the cooperative documents.

711.47 Assessments; liability; lien and priority; interest; collection.—

(1) A unit owner, regardless of how title is acquired, including without limitation a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the owner of a unit. In a voluntary conveyance the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

(2) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common areas or by abandonment of the unit for which the assessments are made.

(3) Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the rate provided in the cooperative documents, not to exceed the rate allowed by law, and if no rate is provided then at the legal rate.

(4) The association shall have a lien on each cooperative parcel for any unpaid assessments, and interest thereon, against the unit owner of such cooperative parcel. If authorized by the cooperative documents said lien shall also secure reasonable attorney's fees incurred by the association incident to the collection of such assessment or enforcement of such lien.

(5) Liens for assessments may be foreclosed by suit brought in the name of the association in like manner as a foreclosure of a mortgage on real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the cooperative parcel, if so provided in the cooperative documents, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The association shall have the power, unless prohibited by the cooperative documents, to bid on the cooperative parcel at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same.

(6) Any unit owner shall have the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his cooperative parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

Section 17. Sections 711.61, 711.63, 711.65, 711.66, 711.68, 711.69, 711.70, and 711.71, Florida Statutes, are created to read:

711.61 Application of Sections 711.62-711.71.—The provisions of Sections 711.62 through 711.71 apply to condominium ownership and to cooperative ownership.

711.63 Creation of condominium and cooperatives; contents of leases.—If any portion of the common elements or common areas or any other property serving the unit owners of a condominium or cooperative is subject to a lease, and the rent under the lease is payable by the association or by the unit owners, or if a developer leases a unit for a term of more than five (5) years or sells a unit subject to a lease with a remaining term of more than five (5) years, the terms of the lease shall comply with the following requirements:

(1) The leased land must be described by a legal description that is sufficient to pass title, and the leased personal property must be described by a description and inventory that are sufficient to identify it. Unless the lease is of a unit, the description of the land shall be supplemented by a survey showing the relation of the leased land to the land included in the common elements or common areas.

(2) The lease shall contain no reservation of the right of possession or control of the leased property in favor of the lessor or any person other than unit owners or the association, and shall create no rights to possession or use of the leased property in any parties other than the association or unit owners of the condominiums or cooperatives to be served by leased property unless the reservations and rights created are conspicuously disclosed. Any provision for use of the leased property by other than unit owners of the condominiums or cooperatives to be served by the leased property shall be subject to cancellation by the unit owners in the manner elsewhere provided after the transfer to unit owners other than the developer of control of the association operating the leased property. This requirement shall not preclude a developer from showing the leased property to prospective purchasers of units at reasonable times.

(3) Unless the lease is of a unit, the lease shall determine the minimum number of unit owners that will be required directly or indirectly to pay the rent payable under the lease and the maximum number of units that will be served by the leased property. The limitation of the number of units to be served shall not preclude enlargement of the facilities leased and an increase in its capacity if approved by the association operating the leased property after unit owners other than the developer have assumed control of the association.

(4) If the lease is of any portion of the common elements or common areas or any other property serving the unit owners of a condominium or cooperative, the rent payable under the lease shall not be secured by a lien upon a unit being used as a private residence, domicile or homestead.

(5) If the lease is of recreational facilities or other commonly used facilities that are not completed, rent shall not commence until some of the facilities are completed. Until all of the facilities leased are completed, rent shall be prorated and paid only for the completed facilities in the proportion that the value of the completed facilities bears to the estimated value when completed of all of the facilities that are leased. For the purposes of this subsection, a completed recreational facility or other commonly used facility means a facility that is completed and is available for use exclusively by unit owners and their guests.

(6) If a lease is of a residential unit or of recreational facilities or other commonly used facilities serving residential units, the rent shall be a stated sum payable periodically that may be adjusted only at intervals of not less than ten (10) years. If the rent is adjusted, the adjustment shall be by increase and decrease in accordance with the changes in a nationally recognized and conveniently available commodity index except that the lease may preclude a decrease below the rent originally required.

(7) (a) A lease of recreational facilities or other commonly used facilities shall grant to the lessee an option to purchase the leased property at the following times and for the prices indicated payable in cash:

1. On any anniversary date of the beginning of the lease term after the tenth anniversary at a price then determined by agreement, and if there is no agreement then by arbitration under the Florida arbitration code; provided that in the event of arbitration, the arbitrators shall take into account the capitalization of the current rent but shall not take into account the discounted rent for the unexpired term of the lease.

2. On any anniversary date of the beginning of the lease term after the twenty-fifth anniversary at a price then determined by agreement, and if there is no agreement then by arbitration under the Florida arbitration code; provided that in the event of arbitration, the arbitrators shall not take into account the amount of the annual rental or any capitalization of the annual rent and shall not take into account the discounted rent for the unexpired term of the lease.

(b) The options shall be exercised upon approval by owners of seventy-five percent (75%) of the units served by the leased property.

#### 711.65 Sales; warranties.—

(1) An implied warranty of fitness and merchantability shall attach:

(a) To each condominium or cooperative parcel that is created a condominium or cooperative parcel within five (5) years after the completion of the building containing the units,

(b) To the personal property that is transferred with or is appurtenant to each of such parcels, and

(c) To all improvements and personal property provided for the use of unit owners of a condominium or cooperative that is created a condominium or cooperative prior to the date that is five (5) years after the completion of such improvements. For the purpose of this subsection (1), completion of the building means issuance of a final certificate of occupancy for the entire building or the equivalent authorization issued by the governmental body having jurisdiction, and in areas where no certificate of occupancy or equivalent authorization is issued, it means substantial completion of the building according to the plans and specifications.

(2) This implied warranty shall inure to the benefit of each owner and his successor owners, and to the benefit of a developer, as follows:

(a) As to the roof and structural components of a building or other improvement, and as to mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit, there shall be the following warranties:

1. From the developer for the period beginning with the date of the first occupancy or use of a building or other improvement by a unit owner other than the developer, and ending in five (5) years or ending in six (6) months after unit owners other than the developer elect a majority of the board of the administration of the association, whichever period is the less-

er, but in no event in less than three (3) years. Provided, however, that if the developer secures reports from registered engineers dated after the three (3) year period beginning with the date of the first occupancy or use of a building or other improvement by a unit owner other than the developer, and the reports certify as to the condition of warranted items, the period of the warranties as to the items covered by the reports shall end six (6) months after the date of mailing by certified mail of a copy of such reports to each unit owner.

2. From the contractor, subcontractors and suppliers for a period of three (3) years from the completion of construction or installation.

(b) As to all other property there shall be the following warranties:

1. From the developer for a period of one (1) year beginning with the closing of a sale of a unit or with the date of first occupancy of the unit, whichever shall first occur, as to property that is a part of or passes with a condominium or cooperative parcel, and as to all other property beginning with the date of first use of the property by a unit owner other than the developer.

2. From the contractor, subcontractors and suppliers for a period of one (1) year from the completion of construction of improvements or from the installation of personal property.

(3) The warranties herein provided to the unit owner or the association shall be conditioned upon routine maintenance being performed.

#### 711.66 Sales; transfer of association control.—

(1) When unit owners other than the developer own fifteen percent (15%) or more of the units that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect not less than one third (1/3) of the members of the board of administration of the association. Unit owners other than the developer shall be entitled to elect not less than a majority of the members of the board of administration of an association three (3) years after sales by the developer have been closed of seventy-five percent (75%) of the units that will be operated ultimately by the association, or three (3) months after sales have been closed by the developer of ninety percent (90%) of the units that will be operated ultimately by the association, or when all of the units that will be operated ultimately by the association have been completed and some of them have been sold and none of the others are being offered for sale by the developer in the ordinary course of business, whichever shall first occur. The developer shall be entitled to elect not less than one (1) member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business any units in a condominium or cooperative operated by the association.

(2) Within sixty (60) days after unit owners other than the developer are entitled to elect a member or members of the board of administration of an association, the association, shall call and give not less than thirty (30) days nor more than forty (40) days notice of a meeting of the unit owners for this purpose. Such meeting may be called and the notice given by any unit owner if the association fails to do so.

(3) If a developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the developer:

(a) Assessment of the developer as a unit owner for capital improvements.

(b) Any action by the association that would be detrimental to the sales of units by the developer; provided, however, that an increase in assessments for common expenses without discrimination against the developer shall not be deemed to be detrimental to the sales of units.

(4) Prior to or within a reasonable time after unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association and shall deliver to the association all property of the unit owners and of the association held by or controlled by the developer, including but not limited to the following items, if applicable, as to each condominium operated by the association or as to the cooperative.

(a) The original, a certified copy or a photocopy of the recorded declaration of condominium; if a photocopy is provided, the same shall reflect the recording information and shall be certified by affidavit by the developer or officer or agent of the developer as being a true and complete copy of the actual recorded declaration; the association articles of incorporation, if it be an incorporated association; bylaws; minute books and other corporate books and records of the association, if any; the cooperative documents; and any house rules and regulations which may have been promulgated.

(b) Resignations of officers and members of the board of administration who may be required to resign for reason of the requirement that the developer relinquish control of the association.

(c) An accounting or accountings for association funds. The developer shall be liable to the association for all of the funds of the association that are not properly expended and which were collected during the period of time that the developer controlled the board of administration of the association.

(d) Association funds or control thereof.

(e) All tangible personal property that is represented by the developer to be part of the common elements or cooperative property, or that is ostensibly part of the common elements or cooperative property, or that is property of the association, and inventories of these properties.

(f) A copy of the plans and specifications utilized in the construction of improvements and the supplying of equipment to the condominium or cooperative and for the construction and installation of all mechanical components serving the improvements and the site, with a certificate in affidavit form of the developer or of his agent or of an architect or engineer authorized to practice in this state that such plans and specifications represent to the best of their knowledge and belief the actual plans and specifications utilized in and about the construction and improvement of the condominium or cooperative property and for the construction and installation of the mechanical components serving the improvements. In the event that the condominium or cooperative property shall have been declared a condominium or cooperative more than three (3) years after the completion of the construction of the improvements, then the requirements of this subsection (f) shall not apply. If, however, the improvements on the condominium or cooperative property submitted to condominium or cooperative form of ownership shall have been remodeled within three (3) years prior to the date of the creation of condominium or cooperative, then the requirements of this paragraph (f) shall apply to the plans and specifications utilized in and about the remodeling.

(g) Insurance policies.

(h) Copies of any certificates of occupancy which may have been issued within one (1) year of the date of creation of the condominium or cooperative.

(i) Any other permits issued by governmental bodies applicable to the condominium or cooperative property and which are currently in force or were issued within one (1) year prior to the date upon which the unit owners other than the developer took control of the association.

(j) Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

(k) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.

(l) Leases of the common elements, or in which the association is lessor or lessee.

(m) Employment contracts in which the association is one of the contracting parties.

(n) Service contracts in which the association is one of the contracting parties or service contracts in which the association or the unit owners have directly or indirectly on obligation or responsibility to pay some or all of the fee or charge of the person or persons performing the services.

(o) Other contracts in which the association is one of the contracting parties.

(5) Any grant or reservation made by a declaration or cooperative documents, lease or other documents, and any con-

tract made by an association prior to assumption of control of the association by unit owners other than the developer, that provides for operation of a condominium or cooperative or for maintenance, management, or operation of condominium or cooperative property or of property serving the unit owners of a condominium or cooperative shall be fair and reasonable, and may be canceled by unit owners other than the developer under the following circumstances:

(a) If the association operates only one (1) condominium or a cooperative and the unit owners other than the developer have assumed control of the association, or if unit owners other than the developer own not less than seventy-five percent (75%) of the units in the condominium, the cancellation shall be by concurrence of the owners of not less than seventy-five percent (75%) of the units other than the units owned by the developer. If a grant, reservation or contract is canceled under this provision and the unit owners other than the developer have not assumed control of the association, the association shall make a new contract or otherwise provide for maintenance, management or operation in lieu of the canceled obligation at the direction of the owners of not less than a majority of the units in the condominium or cooperative other than the units owned by the developer.

(b) If the association operates more than one (1) condominium and the unit owners other than the developer have not assumed control of the association, and if unit owners other than the developer own not less than seventy-five percent (75%) of the units in a condominium operated by the association, any such grant, reservation or contract for maintenance, management or operation of buildings containing the units in that condominium or of improvements used only by unit owners of that condominium, may be canceled by concurrence of the owners of not less than seventy-five percent (75%) of the units in the condominium other than the units owned by the developer; but no grant, reservation or contract for maintenance, management or operation of recreational areas or any other property serving more than one condominium may be canceled except as elsewhere provided after the unit owners other than the developer have assumed control of the association. If a grant, reservation or contract is canceled under this provision, the association shall make a new contract or otherwise provide for maintenance, management or operation in lieu of the canceled obligation at the direction of the owners of not less than a majority of the units in the condominium other than the units owned by the developer.

(c) If the association operates more than one (1) condominium and the unit owners other than the developer have assumed control of the association, the cancellation shall be by concurrence of the owners of not less than seventy-five percent (75%) of the total number of units in all condominiums operated by the association other than the units owned by the developer.

(d) If a condominium or cooperative project contains more than one (1) condominium or cooperative and they are operated by more than one (1) association, no such grant, reservation or contract for maintenance, management or operation of a recreational area or any other property serving more than one (1) condominium or cooperative may be canceled until unit owners other than the developer have assumed control of all of the associations operating the condominiums or cooperatives that are to be served by the recreational area or other property, after which such cancellation may be effected by concurrence of the owners of not less than seventy-five percent (75%) of the total number of units in those condominiums or cooperatives other than the units owned by the developer.

(e) Any grant or reservation made by a declaration or cooperative document, lease or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer shall be fair and reasonable.

#### 711.68 Sales and leases; generally.—

(1) No person shall be denied the right to purchase or lease a unit because of race, religion, sex or national origin; nor shall any advertising be permitted that indicates such denial.

(2) If a building is converted from a rental operation to condominium or cooperative ownership, each tenant of the building shall have the right to extend an expiring lease or tenancy upon the same terms for a period that will expire no later than one hundred twenty (120) days after the mailing of a

notice of the intended conversion to the tenant, providing, however, that any tenant must give notice to the developer of his intention to extend his lease as permitted in this subsection (2) not later than thirty (30) days after the mailing of the notice of the intended conversion to the tenant.

(3) It is the policy of this state that provisions of contracts, leases or other undertakings which allow landlords or developers at their option to cancel and terminate the term of such leases upon the conversion of the property and improvements to condominium or cooperative form and upon short notice to the tenant, to be unenforceable and against public policy. Therefore, any provision in any contract, lease or undertaking executed after the effective date of this act which provides for the early cancellation or early or advanced termination of the term of any lease for an apartment or other residence at the option of the landlord or developer for reason of its intended conversion to condominium or cooperative form of ownership, shall be unenforceable except in the following cases:

(a) If the lease shall provide for a notification to the tenant of a minimum of one hundred fifty (150) days notice before such cancellation or termination shall become effective; or,

(b) If the term of the lease has less than one hundred fifty (150) days remaining after such notification is given; or

(c) If the lease grants the tenant therein an option to purchase the apartment or other residence in which he resides at some substantially preferred rate, which option is exercisable by the tenant during a period of not less than ninety (90) days of the mailing of a notice of the intended conversion to the tenant by certified mail; or,

(d) If the lease provides that the lessor or developer shall not convert to condominium or cooperative format except with the consent of the tenants of not less than sixty (60%) percent of the apartments or other dwellings in the buildings intended to be converted. For the purpose of this vote, unoccupied apartments or dwellings shall be counted and the developer or lessor may vote those apartments; or,

(e) If the lease shall provide for a notification to the tenant which does not meet the requirement of paragraph (3)(a) above, and if the term of the lease has more than one hundred fifty (150) days remaining after such notification is given, such notification to the tenant of early cancellation or early or advanced termination of the term of the lease may nevertheless be effective if the notice provides that the lease notwithstanding, the tenant shall have one hundred fifty (150) days before such cancellation or termination shall become effective, or a longer period of time if the developer or landlord shall so provide in the notice.

(f) Leases executed subsequent to the announced intention of the developer or landlord to convert to a condominium or cooperative format may contain provisions for the early or advanced termination of the term of such leases or the early cancellation of such leases upon not less than sixty (60) days notice to the tenant, providing that the lease shall conspicuously disclose the fact that it is the landlord's or developer's intention to convert the property containing the leased premises to a condominium or cooperative form of ownership, and that the lease may be cancelled upon as little as sixty (60) days notice to the tenant of the landlord or developer's exercise of the right of cancellation.

(g) Whenever in this subsection (3) a notice to a tenant shall be required to be given, said notice shall be deemed given when deposited in the United States mail addressed to the tenant at his last known residence (which may be the address of the property subject to the lease) sent by certified or registered mail with sufficient prepaid postage affixed to carry it to its destination.

(h) Except in the cases provided for in paragraphs (3)(b) and (3)(d) above, the provisions of and rights granted in subsection (2) shall not apply.

(4) Notice as provided herein shall be non-waivable to each tenant in the building to be converted unless the tenant's leasehold agreement clearly states that the building is to be so converted.

#### 711.69 Sales and leases; disclosure materials—prospectus or offering circulars.—

Before a developer offers more than twenty (20) residential condominium or residential cooperative parcels for sale,

or for lease for an unexpired term of more than five (5) years, in a residential condominium or residential cooperative containing more than twenty (20) units, or in a group of residential condominiums or residential cooperatives containing more than twenty (20) units that will be served by property to be used in common by unit owners of more than one condominium or cooperative, the developer shall prepare a prospectus or offering circular addition to such other circulars, bulletins or disclosure materials as are required by this chapter, all of which together are defined as disclosure materials, concerning each condominium or cooperative in which units are offered. The materials may, at the developer's option, include the required information pertaining to more than one (1) condominium or cooperative, or the developer may prepare separate disclosure material for one or more condominiums or cooperatives, notwithstanding the fact that units in the condominiums or cooperatives for sale or lease are not all being offered for sale or lease at the time of preparation of the documents or of their distribution. The prospectus or offering circulars shall contain so much of the following described information as is applicable in outline, summary or question and answer form.

(1) A caveat on the first page in bold-face type or capital letters no smaller than the largest type on the page in the following words: **ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS REFERENCE SHOULD BE MADE TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS.**

(2) A brief description of the condominium or cooperative which shall include but not be limited to the following information:

(a) Name and location.

(b) Maximum number of units that will use facilities in common with the subject condominium or cooperative. The prospectus or offering circular may reflect that the maximum number of units will vary in accordance with a stated formula in which the developer agrees to expend a stated minimum amount in dollars on a per unit basis for additional recreational facilities, or enlargement of such facilities, and providing the addition or enlargement of such facilities when produced does not result in a substantial increase of the maintenance expense or rental expense (if any) to each unit owner, unless the amount of that increase and limitations thereon are disclosed and set forth with particularity.

(3) A statement as to whether the developer's plan includes a program of leasing units rather than selling them. With respect to units which are being offered and sold subject to a lease, the number and identification of the units shall be set forth with particularity and a statement in bold-faced type or capital letters no smaller than the largest type in the context where used, in substantially the following form, shall be included: **THESE UNITS WILL BE TRANSFERRED SUBJECT TO A LEASE THAT EXPIRES \_\_\_\_\_ AND THE LESSEE'S INTEREST WILL TERMINATE ON THE EXPIRATION OF THE LEASE.** In lieu of identifying the units which will be sold subject to a lease and including the foregoing required statement in the disclosure materials, the developer may include a statement, conspicuously displayed, in the first page of the purchase agreement for a unit being sold subject to a lease, which shall be in bold-faced type or capital letters no smaller than the largest type used in the text of the first page of the purchase agreement, in substantially the following form: **THIS UNIT WILL BE TRANSFERRED SUBJECT TO A LEASE THAT EXPIRES \_\_\_\_\_ AND THE LESSEE'S (UNIT OWNER'S) INTEREST WILL TERMINATE UPON EXPIRATION OF THE LEASE.**

(4) A description of the condominium or cooperative, which shall include but not be limited to the following information:

(a) Schedule of buildings showing the number of units in each building and the number of bedrooms and bathrooms in each unit, which designation shall not be deemed to preclude rooms in a given unit from being combined or to prevent or require the use of any specific room in any manner which is otherwise lawful and permitted, nor the conversion of any such room into a bedroom or to another use.

(b) Total number of units, which shall not prevent nor prohibit the combining of two or more units into one unit, or if combined, the severance of those units into their component parts.

(c) Reference to the volume and page of the condominium or cooperative documents in which can be found a copy of a survey or site plan of the condominium or cooperative showing the location of all residence buildings and recreational and other facilities used only by the unit owners of the condominium or cooperative. If this survey or site plan does not designate the portions of such property that are owned by unit owners or the association and the portions that are owned by others, a copy of a sketch of the plot plan showing this information shall be an exhibit to the prospectus or offering circular.

(d) Estimated latest date of completion. In lieu of including the latest date of completion of a given condominium or cooperative in the prospectus or offering circular, the developer may include that information in the purchase agreement in which case there shall be included in the prospectus or offering circular a statement to the effect that the estimated date of completion of the building or buildings contained within the condominium or cooperative is set forth in the purchase agreement and a reference to the article or paragraph in which that information is contained.

(5) A description of the recreational and other commonly used facilities that will be used only by unit owners of the condominium or cooperative, including but not limited to the following information:

(a) A description of each room as to its intended purposes, location, approximate floor area and capacity. This statement or description shall not prohibit the association when controlled by other than developer from changing usages or purposes, or from modifying such rooms as permitted under the declaration, bylaws or cooperative documents.

(b) Description of each swimming pool as to its general location, approximate pool size and depths, approximate deck size and capacity, and whether heated.

(c) Description of additional facilities as to the number of each facility, its approximate location, approximate size and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility, or in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The approximate capacity (in numbers of people) that can reasonably be expected to be served by each room or other facility at any one time.

(f) The estimated date when each room or other facility will be available for use by the unit owners.

(g) An identification of each room or other facility that will not be owned by the unit owners or the association, and a reference to the volumes and pages or paragraph numbers of the condominium or cooperative documents and of the exhibits to the prospectus or offering circulars at which a copy of each lease or other document providing for use of such facilities can be found.

(h) The length of the term of such lease or other document.

(i) The rent payable directly or indirectly by each unit owner and the total rent payable to the lessor under each of such leases stated in monthly and annual amounts, as well as in amounts payable at times stated in the leases.

(j) A description of any option to purchase the property leased under any such lease as to the time the option may be exercised, the purchase price, the manner of computing the same, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(k) The developer may provide that additional facilities not legally described as required above may be added to the condominium or cooperative property or constructed thereon, by indicating the general location, the various types of facilities that may be involved, improvements that may be made or changes that may be made, the approximate dollar amount the developer intends to expend in providing such additional or modified facilities, and a fair estimate of the maximum additional common expense or cost to the individual unit owners that may fairly be anticipated to be experienced by the unit owners during the first annual period of operation of the modified or added facilities.



(1) Description as to locations, areas, capacities, numbers, volumes or sizes may be stated as approximations or minimums, provided that the facilities when produced nevertheless substantially conform to such approximations and meet or exceed such minimums.

(6) A description of the recreational and other facilities that will be used in common with other condominiums or cooperatives when the use or payment of the maintenance and expenses of such facilities either directly or indirectly by the unit owners is a mandatory condition of unit ownership, which description shall include but not be limited to the following information:

(a) A general description of each building and other facility and their general location, if committed to be built.

(b) A statement as to what facilities are not committed to be built except under certain conditions and a statement of those conditions or contingencies.

(c) The approximate year in which each facility will be available for use by the unit owners, or in the alternative, the maximum number of unit owners in the project at the time each or all of the facilities is committed to be completed.

(d) As to any facility committed to be built, a description of each room as to general purpose, approximate location, minimum floor area and approximate capacity. As to any pool facility committed to be built, a description of each swimming pool as to approximate location, minimum pool size and depth, approximate deck size, approximate pool capacity (in number of people) and whether heated.

(e) As to any facilities not committed to be built, but which may be committed to be built upon the happening of contingencies as set forth in accordance with the requirements of subsection (6)(b), a description of such additional facilities as to the minimum number of each facility, the nature of the facility, its approximate location and its approximate capacity. Alternatives may be stated.

(f) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility, or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(g) A statement as to each facility committed to be built, or which will be committed to be built upon the happening of one of the contingencies identified in accordance with the provisions of subsection (6)(b) describing whether it will be owned by the unit owners having the use thereof or by an association or other entity which will be controlled by them, or others; and a cross reference to the location in disclosure materials or among the exhibits to the prospectus or offering circulars in which the lease or other document providing for such of those facilities as are included thereunder or will be included thereunder can be found.

(h) The length of the term of each of such leases or other documents.

(i) The rent payable under each of such leases directly or indirectly by each unit owner that ultimately may use the facilities, except that if the rent is a common expense of the association, the rent payable by the association shall be stated and the rent payable by each unit as part of the common expense due from the unit may be stated as an average for each unit in a condominium or a cooperative in that association, stated in monthly and annual amounts, as well as in the amounts payable at the times stated in the leases.

(j) A description of any option to purchase the property leased under any such lease as to the time the option may be exercised, the purchase price or the formula for ascertaining the purchase price, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(k) Description as to locations, areas, capacities, numbers, volumes or sizes may be stated as approximations or minimums, provided that the facilities when produced nevertheless substantially conform to such approximations and meet or exceed such minimums.

(7) If the condominium or cooperative is part of a phase project subject to the provisions of Section 711.64 and for which

a developer's commitment is required, there shall be stated that the condominiums or cooperatives are part of a phase development and that there is a developer's commitment to phase development attached to the prospectus or offering circulars as an exhibit, or otherwise required to be distributed to the buyer. The developer's commitment to phase development shall be, whenever it is required under Section 711.64, part of the disclosure materials required to be distributed to prospective buyers.

(8) The following information shall be supplied concerning the improvements if the condominium or cooperative is created by conversion of an existing building:

(a) Date and type of construction.

(b) Description of prior use.

(c) A statement as to the condition of the roof, mechanical, electrical, plumbing and structural elements, which statement shall be substantiated by attaching a copy of a certificate of a registered architect or engineer.

(d) A statement as to whether there is termite damage and that termite infestation, if any, has been properly treated. The statement shall be substantiated by attaching a copy of an inspection report by a certified pest control operator.

(e) A caveat that there are no warranties unless they are expressly stated in writing by the developer.

(9) Reference to the volumes and pages or paragraph numbers of the condominium or cooperative documents and of the disclosure materials containing provisions relating to control by any person other than unit owners, of the association, of any part of the condominium or cooperative property, or of any property that will be used by the unit owners that is not part of the condominium or cooperative property (for which the expenses of maintenance, upkeep, operation or fees for use are paid by the unit owners directly or indirectly as a mandatory condition of unit ownership) that are contained in the cooperative documents or the declaration, articles of incorporation or bylaws, constitution of the association, if any, any lease of the condominium or cooperative property or any other property serving the unit owners, and any form of proposed lease of condominium or cooperative parcels if the offer is of a leasehold.

(10) A summary of the restrictions, if any, concerning the use of condominium or cooperative parcels, particularly as to whether and to what extent there are restrictions upon children and pets, and reference to the volumes and pages of the condominium or cooperative documents at which such restrictions are found.

(11) If there is any land that is offered by the developer for use by the unit owners that is neither owned by them nor leased to them or to the association, or to an entity controlled by condominium or cooperative unit owners and other persons having the use rights to such land, a statement shall be made as to whether such land will serve the condominium or cooperative. If any part of such land will serve the condominium or cooperative, the statement shall describe the land and the nature and term of service and the declaration or other instrument creating such servitude shall be part of the disclosure materials and shall be an exhibit to the prospectus or offering circular.

(12) The manner in which needs for utility and other services will be met, including but not limited to sewage and waste disposal, water supply and storm drainage.

(13) The arrangements for management of the association and maintenance and operation of the condominium or cooperative property and of other property that will serve the unit owners of the condominium or cooperative property as a mandatory condition of unit ownership, and a description of each contract for these purposes having a service period in excess of one (1) year, as to the following information:

(a) Names of contracting parties.

(b) Term of contract.

(c) Nature of services included.

(d) Compensation stated on a monthly and annual basis and provisions for increases in the compensation.

(e) Reference to the volumes and pages of the condominium or cooperative documents and of the exhibits to the prospectus containing copies of such contracts.

(f) For the purpose of this subsection (13) a contract shall be deemed to have a term of service in excess of one (1) year if it is renewable without the consent of the association.

(14) An explanation of the manner in which the apportionment of common expenses and ownership of the common elements or cooperative property has been determined.

(15) An estimated operating budget for the condominium or cooperative and the association and a schedule of unit owner's expenses shall be an exhibit to the prospectus and shall contain the following information:

(a) Estimated monthly and annual expense of the condominium or cooperative and the association that is collected from unit owners by assessments.

(b) Estimated monthly and annual expenses of each unit owner on account of his unit for assessments payable to the association, for items of expense that are payable by the unit owner to persons or entities other than the association, and the total estimated monthly and annual expense. There may be excluded from this estimate items of expense that are personal to unit owners or which are not uniformly incurred by all unit owners or which are not provided for nor contemplated by the condominium or cooperative documents, including but not limited to private telephone costs, costs of maintenance of the interior of condominium or cooperative units to the extent that such maintenance is not the obligation of the association, the costs of maid or janitorial services privately contracted for by the unit owners, costs of utility bills billed directly to each unit owner for utility services or supply to his unit, insurance premiums other than those incurred in respect of policies obtained by the condominium or cooperative association and applicable to the condominium or cooperative property in general, debt servicing upon any mortgage encumbering the individual unit but not encumbering the condominium or cooperative property as a whole, and like personal expenses of the unit owner may be excluded. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expense of the condominium or cooperative and the association and, except as excluded under subparagraph (b), of the unit owners shall include but not be limited to the following items, which shall be stated either as an association expense collectible by assessments or as unit owners' expenses payable to others than the association:

1. Expenses for the association and condominium or cooperative:

- a. Administration of the association.
- b. Management fees.
- c. Maintenance.
- d. Rent for recreational and other commonly used facilities.
- e. Taxes upon association property.
- f. Taxes upon leased areas.
- g. Insurance.
- h. Security provisions.
- i. Other expenses.
- j. Operating capital.
- k. Reserve for deferred maintenance.
- l. Reserve for depreciation.
- m. Other reserves.

2. Expenses for a unit owner:

- a. Rent for the unit if subject to a lease.
- b. Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used facilities, which use and payment is a mandatory

condition of ownership and which rent is not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

(d) The estimated amounts shall be stated for the period which need not exceed the first annual accounting period prior to the time unit owners other than the developer elect a majority of the board of administration and also for the period after that date which need not exceed an annual accounting period, if that date can be reasonably ascertained at the time of the publication of the disclosure material applicable to that association or that condominium or cooperative. If that date cannot reasonably be ascertained at the time of publication of the disclosure materials applicable to the condominium or cooperative or association involved, there shall appear immediately preceding the beginning or at the end of the budgetary material a statement in bold-faced type or capital letters at least as large as the text contained on the page in substantially the following form: **DEVELOPER MAY BE IN CONTROL OF THE BOARD OF ADMINISTRATION OF THE CONDOMINIUM (OR COOPERATIVE) DURING THE PERIOD OF OPERATION FOR WHICH THIS BUDGET HAS BEEN RENDERED.**

(16) A schedule of estimated closing expenses to be paid by a buyer or lessee of a unit, and advice as to whether a guaranteed title opinion or title insurance policy will be furnished at the expense of the developer.

(17) The identity of the developer and the chief operating officer or principal directing the creation and sale of the condominium or cooperative and a statement of its and his experience in this field.

(18) The developer shall provide, as part of the disclosure materials, as an exhibit to the prospectus or offering circular, a separate document which shall be entitled: **IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM (COOPERATIVE) UNIT.**

(a) This document shall on its cover page, in addition to its title hereinabove required, identify the condominium project, the developer offering the units for sale, the condominium (cooperative) buildings and phases to which the document is applicable, and then the following information which shall commence not later than the second page of said document:

1. A statement in bold-faced type or capital letters describing whether the condominium or cooperative is created and being sold on fee simple interests or on leasehold interests. If the condominium or cooperative is created or being sold on a leasehold interest, reference shall be made to the articles, paragraphs or pages in the disclosure materials in which a description of the lease shall be found.

2. If any recreation facilities or other facilities offered by the developer and available to or to be used by unit owners are on lease or club format, a statement in bold-faced type or capital letters shall be included in substantially the following form: **THERE IS A RECREATION FACILITIES LEASE ASSOCIATED WITH THIS CONDOMINIUM (COOPERATIVE); or, THERE IS A CLUB MEMBERSHIP FORMAT ASSOCIATED WITH THIS CONDOMINIUM (COOPERATIVE).** Immediately following the appropriate statement there shall be a reference to the articles, paragraphs or pages in the disclosure materials where the recreation leases or other formats are described in detail.

3. If as a mandatory condition of unit ownership unit owners must pay a fee, rent, dues or other charges under a recreation facilities lease or club format associated with the use of recreation facilities or other facilities to be used by unit owners, then there shall be a statement in bold-faced type or capital letters in substantially one of the following forms, reflecting the applicable situations: **MEMBERSHIP IN THE RECREATION FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS; or, UNIT OWNERS ARE REQUIRED AS A CONDITION OF SUCH OWNERSHIP TO BE LESSEES UNDER THE RECREATION FACILITIES LEASE; or, UNIT OWNERS WILL BE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT, RENT AND FEES CALLED FOR UNDER THE RECREATION FACILITIES LEASE OR THE OTHER INSTRUMENTS PROVIDING THE RECREATION FACILITIES AS A MANDATORY CONDITION OF UNIT OWNERSHIP; or a similar statement clearly expressing the nature of the organization or manner in which the use rights are created and the**



fact that unit owners' participation therein is mandatory. Immediately following the applicable statement, there shall appear a reference to the articles, paragraphs or pages in the disclosure materials where the format is described in detail.

4. If the developer or any other persons, other than the association, associations or homeowners' or similar association whose membership is composed solely of unit owners and other persons having use rights in the facilities, shall reserve to itself or themselves or be entitled to receive a rent, fee or other payment in respect of the use of the facilities (which payment or fee is in the nature of a reserved rent or a land use fee), then a statement in bold-faced type or capital letters in substantially the following form shall be included: **THE UNIT OWNERS OR THE ASSOCIATION(S) WILL PAY RENT OR LAND USE FEES FOR RECREATION OR OTHER COMMONLY USED FACILITIES.** Immediately following this statement there shall appear a reference to the articles, paragraphs or pages in the disclosure materials where the rent or land use fees are set forth or described in detail.

5. If the developer or any other person shall have the right to increase or add to the recreation facilities at any time after the establishment of the condominium(s) or cooperative(s) whose unit owners have use rights therein without the consent of the unit owners or associations being required, then there shall appear a statement in bold-faced type or capital letters in substantially the following form: **RECREATION FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S).** Immediately following this statement, there shall be a reference to the documents, articles, paragraphs or pages in the disclosure materials where a description of such reserved rights may be found or is set forth.

6. If there is a contract for the management of the condominium or cooperative property, then a statement in bold-faced type or capital letters in substantially the following form shall appear, identifying the proposed or existing contract manager: **THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM (COOPERATIVE) PROPERTY WITH (NAME OF THE CONTRACT MANAGER).** Immediately following this statement, there shall appear a reference to the documents, articles, paragraphs or pages in the disclosure materials where the contract for management of the condominium or cooperative property is set forth or described in detail.

7. If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed one (1) year after the closing of the sale of a majority of the units in that condominium or cooperative to persons other than successor or alternate developers, then a statement in bold-faced type or capital letters in substantially the following form shall be included: **THE DEVELOPER (OR OTHER PERSONS) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.** Immediately following this statement, there shall appear a reference to the documents, articles, paragraphs or pages in the disclosure materials where this right to control is set forth or described in detail.

8. If there are any restrictions upon the free sale, transfer, conveyance or leasing of a unit, then a statement in bold-faced type or capital letters in substantially the following form shall be included: **THE SALE, LEASE OR TRANSFER OF YOUR UNIT IS RESTRICTED OR CONTROLLED.** Immediately following this statement, there shall appear a reference to the documents, articles, paragraphs or pages in the disclosure materials where the restriction, limitation or control on the sale, lease or transfer of units is set forth or described in detail.

9. A developer shall set forth after all the statements required in this subsection (18) have been included, a statement in substantially the following form which at developers option may be in bold-faced type or capital letters: **THE STATEMENTS SET FORTH ABOVE ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES AS WELL AS THE ENTIRE SET OF DISCLOSURE MATERIALS AND HIS CONTRACT OR PURCHASE AGREEMENT. ALL DISCLOSURE MATERIALS, CONTRACT DOCUMENTS AND BROCHURE MATERIALS ARE IMPORTANT LEGAL DOCUMENTS AND IF NOT UNDERSTOOD, PROSPECTIVE PURCHASER SHOULD SEEK LEGAL ADVICE.**

(b) In lieu of a separate document, the statements required by this subsection (18) may be included in the developer's offering circular or prospectus, providing that on the cover page of such materials there shall conspicuously appear the statement in bold-faced capital type: **IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM (CO-OPERATIVE) UNIT ARE SET FORTH COMMENCING ON PAGE TWO OF THIS DOCUMENT.** The information and statements required in this subsection (18) shall then commence on Page 2 (the inside front cover) of such offering circular or prospectus.

(c) No other information except of a title nature shall appear on the page on which the required statements appear after the first such statement until all of the applicable statements and items required in this subsection(18) shall have been set forth. In all cases the particular required statements shall be conspicuously displayed in bold-faced capital type larger than the largest type used in any other text on the pages on which the statements appear.

(d) The conformity of any statement to the particular wording set forth in this subsection (18) shall not be required. Any statement utilized shall be required to clearly and fairly state the information, and the information given must be accurate in all material aspects respecting the units being offered.

(19) A schedule of the exhibits to the prospectus, a copy of each of which shall be delivered with each copy of the prospectus. The schedule shall include but not be limited to copies of such of the following items as are applicable:

(a) Declaration of condominium, or the proposed declaration if the declaration has not been recorded, or the cooperative documents.

(b) Articles of incorporation or charter or constitution of the association, if an incorporated association or if there is a charter or constitution.

(c) Bylaws.

(d) Ground lease or other underlying lease of the condominium or cooperative property.

(e) Management, maintenance and other contracts for management of the association and operation of the condominium or cooperative and facilities used by the unit owners having a service term in excess of one (1) year. Such contracts as are renewable without the consent of the association being required shall be deemed to have a term in excess of one (1) year.

(f) Estimated operating budget for the condominium or cooperative and the required schedule of unit owners' expenses.

(g) Lease or recreational and other facilities that will be used only by unit owners of the subject condominium or cooperative.

(h) Lease of recreational and other common facilities that will be used by unit owners in common with unit owners of other condominiums or cooperatives.

(i) Form of unit lease if the offer is of a leasehold.

(j) Declaration of servitude of properties serving the condominium or cooperative but not owned by unit owners or leased to them or the association.

(k) Developer's commitment to phase development.

(l) The statement of condition of existing building or buildings if the offering is of units in a rental operation being converted to condominium or cooperative ownership.

(m) Statement of inspection for termite damage and treatment as to existing building if the condominium or cooperative is a conversion of a rental operation.

(n) Form of agreement for sale or lease of units.

(20) If the buyer requests the buyer shall be given a copy of the agreement for escrow of payments made to the developer prior to closing, if any such agreement is being used, and/or a copy of the performance and payment bond for completion of the building containing the unit being purchased, if there is such a bond.

(21) Each volume containing one (1) or more than one (1) of the separate documents required to be distributed to prospective buyers as disclosure materials or containing one or more of the items required as exhibits to the prospectus or offering circular, except for the volume containing the document entitled **IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM (COOPERATIVE) UNIT**, required under subsection (18), shall contain beginning with the first page of the volume a table of contents for each of the following documents contained in the volume: cooperative documents or declaration; articles of incorporation or charter or constitution of association; bylaws; and copy of form of lease. If the statements required under subsection (18) shall be included in a volume of other documents or disclosure materials, that index shall begin on the page immediately succeeding the information required to be included under subsection (18). Each table of contents shall contain in bold-faced type or capital letters no smaller than the largest type in the text material on that page, references to all provisions in the documents to which that table of contents is applicable relating to ownership or control by any person, other than unit owners or an association or entity controlled by them, of any part of the condominium or cooperative property which will be used by the unit owners as a mandatory condition of unit ownership.

(22) If a developer in good faith has attempted to comply with the requirements of this act and, in fact, has substantially complied with the disclosure requirements of this act, non-material errors or omissions in the disclosure materials shall not be actionable.

#### 711.70 Sales and leases; disclosure.—

(1) Before a developer's contract for the sale of a residential unit or for the lease of a residential unit for an unexpired term of more than five (5) years, in a residential condominium or residential cooperative becomes binding upon the buyer, the developer shall deliver to the prospective buyer or lessee a copy of the floor plan of the unit and a copy of the prospectus or offering circular, if required, and if a prospectus or offering circular is not required, then a copy of the applicable items required by subsection 711.69(19).

(2) If a developer contracts for the sale of a unit, or for the lease of a unit for an unexpired term of more than five (5) years, prior to closing the contract may be cancelled at the election of the buyer or lessee by written notice delivered to the developer within fifteen (15) days after the execution of the contract or within fifteen (15) days after the delivery of all of the items required to be delivered by the developer under this section, whichever shall be the later date. At the option of the purchaser or lessee, the contract time of closing shall be extended for this fifteen (15) day period that begins with the delivery of all of the items required. The contract shall contain within the text a legend in bold-faced type or capital letters no smaller than the largest type in the text and in words with the following effect: **THE BUYER HAS THE RIGHT AND OPTION TO CANCEL AND TERMINATE THIS AGREEMENT BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS OF THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, OR IF BUYER HAS NOT RECEIVED ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER FLORIDA STATUTES SECTION 711.70(1), THEN AT ANY TIME PRIOR TO FIFTEEN (15) DAYS AFTER THE BUYER RECEIVES THE LAST OF THE ITEMS TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SAID SECTION 711.70(1) WHICHEVER SHALL BE THE LATER DATE. THE BUYER'S RIGHT TO TERMINATE MUST BE EXERCISED HOWEVER PRIOR TO THE CLOSING. THE CONTRACT TIME FOR CLOSING MAY AT THE OPTION OF THE BUYER BE EXTENDED FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE BUYER HAS RECEIVED THE LAST OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SECTION 711.70(1).** Voiding of a contract under the provisions of this subsection shall entitle the buyer or lessee to receive repayment of all moneys paid by him under the contract together with interest thereon at the highest rate then being paid upon savings accounts other than certificates of deposit by savings and loan associations in the area in which the unit is located.

(3) The items required to be furnished to a buyer or lessee under this section shall constitute a part of the contract for sale or lease, and no change may be made in any of the items

required to be furnished which would affect materially the rights of the buyer or lessee or the value of the unit without approval of the buyer or lessee.

(4) A contract for sale or lease made by a developer shall include the following provisions in addition to provisions elsewhere required:

(a) A caveat in bold-faced type or capital letters no smaller than the largest type on the page shall be placed upon the first page of the contract in the following words: **ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY FLORIDA STATUTES SECTION 711.70(1) TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.**

(b) If the contract is for the sale or transfer of a unit subject to a lease, or if the contract is for a lease rather than a sale, the contract shall contain within the text a statement in bold-faced type or capital letters no smaller than the largest type in the text and in words with the following effect: **THIS CONTRACT IS FOR THE TRANSFER OF A UNIT SUBJECT TO A LEASE THAT EXPIRES \_\_\_\_\_, AND THE LESSEE'S INTEREST WILL TERMINATE UPON EXPIRATION OF THE LEASE.**

(c) Whether the unit that is the subject of the contract has been occupied.

(5) If condominium or cooperative parcels are offered for sale or lease prior to completion of construction of the units and of improvements of the common elements, or prior to completion of remodeling of an existing building, the developer shall make available to each prospective purchaser or lessee for his inspection at a place convenient to the site a copy of the complete plans and specifications for the construction or remodeling of the unit offered to him and of the improvements of the common elements or common areas appurtenant to the unit.

(6) Sales brochures, if any, describing the condominium or cooperative property and the units to be sold or leased, shall include a description and location of recreation facilities committed to be provided by the developer, parking facilities and other commonly used facilities, together with a statement indicating which of the facilities will be owned by unit owners as part of the common elements or common areas and which of the facilities will be owned by others. A caveat in bold-faced type or capital letters no smaller than the largest type of text material on the page shall be conspicuously placed on the inside front cover, or on the first page containing text material, of the sales brochure, or otherwise conspicuously displayed in the following words: **ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS REFERENCE SHOULD BE MADE TO THIS BROCHURE AND TO THE DOCUMENTS REQUIRED BY FLORIDA STATUTES SECTION 711.70(1) TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.**

(7) If units are sold subject to a lease, or if units are leased rather than sold, all written or printed advertising of the units shall contain a statement in bold-faced type or capital letters no smaller than the largest type in the context where used and in words with the following effect: **THESE UNITS WILL BE TRANSFERRED SUBJECT TO A LEASE.**

#### 711.71 Sales and leases; publication of false or misleading information.—

(1) Any person who, in reasonable reliance upon any material statement or information that is false or misleading published by or under authority from the developer in advertising and promotional materials, including, but not limited to a prospectus, the items required as exhibits to a prospectus, brochures and newspaper advertising, pays anything of value toward the purchase or lease of a condominium or cooperative parcel located in this state shall have a cause of action to rescind the contract or collect damages from the developer for his loss prior to the closing of the transaction. After the closing of the transaction, the purchaser or lessee shall have a cause of action against the developer for damages under this section from the time of closing until one (1) year after the date upon which the last of the events described in paragraphs (a) through (d) shall occur:

(a) *The closing of the transaction;*

(b) *The first issuance by the applicable governmental authority of a certificate of occupancy or other evidence of sufficient completion of construction of the building containing the unit to allow lawful occupancy of the unit. In counties or municipalities in which certificates of occupancy or other evidence of completion sufficient to allow lawful occupancy are not customarily issued, for the purpose of this section, evidence of lawful occupancy shall be deemed given or issued upon the date that such lawful occupancy of the unit may first be allowed under prevailing applicable laws, ordinances, or statutes;*

(c) *The completion by the developer of the common elements or common areas and such recreational facilities, whether or not the same are common elements or common areas, which the developer is obligated to complete or provide under the terms of the written contract or written agreement for purchase or lease of the unit; or*

(d) *In the event there shall not be a written contract or agreement for sale or lease of the unit, then the completion by the developer of the common elements or common areas and such recreational facilities, whether or not the same are common elements or common areas, which the developer would be obligated to complete under any rule of law applicable to the developer's obligation. Under no circumstances shall a cause of action created or recognized under this section survive for a period of more than five (5) years after the closing of the transaction.*

(2) *In any action for relief under this section, the prevailing party shall be entitled to recover reasonable attorney fees.*

Section 18. Section 711.72 is created to read:

711.72 *Corrections by the association; corrections by the courts; limitations on action.—*

(1) *Whenever it shall appear that there is an omission or error in a declaration of condominium, cooperative documents, or in other documentation required by law to establish the condominium or cooperative form of ownership as the case may be, the association may correct such error and omission by an amendment to the declaration of condominium or to the cooperative documents or the other documentation required by law, in the manner provided for in the declaration or cooperative documents or other documentation required by law, to effectuate an amendment for the purpose of curing defects, errors or omissions. Such an amendment need not require the same vote of approval of the members of the association as other amendments and such an amendment shall nevertheless be effective when duly passed and approved and recorded among the public records when recordation is required, if property rights of the unit owners are not materially adversely affected. This subsection shall not be deemed restrictive of the powers of the association to otherwise amend the declaration, cooperative documents, or other documentation, but shall be construed to authorize a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors or omissions when the property rights of unit owners are not materially adversely affected.*

(2) *Whenever it shall appear that there is an omission or error in a declaration of condominium, cooperative documents, or in other documentation required by law to establish the condominium or cooperative form of ownership; as the case may be, the circuit courts of this state for the circuit in which the condominium or cooperative property lies, shall have jurisdiction to entertain petitions of one or more of the unit owners therein, or of the association, to correct the error or omission, and the action may proceed by way of a class action. The court may consider all pertinent matters brought before it in rendering its decision and may require that one or more methods of correcting the error or omission be submitted to the unit owners to determine the most acceptable correction. The court shall correct the error or omission in the exercise of its reasonable discretion upon finding that the corrections shall not substantially interfere with the property rights of any of the unit owners not consenting to the correction, and upon finding that the correction may not be made by ordinary amendment to the declaration or other documentation for reason that the necessary number of unit owners do not, or will not, approve, or for reason that the amendatory process cannot cure the error or omission without unanimous approval by the unit owners. It shall not be necessary for all unit owners or for the association to be joined as parties to said suit, but all unit owners*

*and the association shall have the right to intervene. Any unit owners not joined and served with process as provided by law shall, nevertheless, be entitled to have mailed to them, by certified mail, return receipt requested, or by registered mail, return receipt requested, at their last known residence address, which may be their unit address, a copy of the petition and a copy of any other pleading or other document which the court may order to be distributed, including but not limited to any rules to show cause issued by the court.*

(3) *Suit may not be brought subsequent to three (3) years after a condominium declaration is filed of record or a cooperative regime is established, to determine whether the declaration, cooperative documentation or other documentation substantially complies with the mandatory requirements of this chapter for the formation of a condominium or cooperative regime. If suit to determine whether the declaration or other condominium or cooperative documentation is not brought within three (3) years of the filing of the declaration or establishment of a cooperative regime in the applicable case, the declaration, cooperative documentation and other documentation shall be deemed effective under this law to create a condominium regime or cooperative regime, as the case may be, whether or not the documentation substantially complies with the mandatory requirements of this chapter. Nevertheless, both before and after the expiration of this three (3) year period, a circuit court of this state shall have jurisdiction to entertain petitions for the correction of the documentation permitted under subsection (2) above, and other methods of amendment may be utilized to correct such errors or omissions at any time.*

Section 19. In the event that any provision or application of this act is held to be invalid, it is the legislative intent that the other provisions and applications hereof shall not be thereby affected.

Section 20. This act shall take effect October 1, 1974.

The Committee on Consumer Affairs offered the following amendment to Amendment 1 which was moved by Senator Trask and adopted:

**Amendment 1a**—On page 36, line 22, strike "not"

Senators Glisson, Lewis and Lane (31st) offered the following amendment to Amendment 1 which was moved by Senator Glisson and adopted:

**Amendment 1b**—On page 35, line 12 strike all of subsection (4) and insert: (4) *The lease shall provide, and if it does not so provide shall be deemed to provide, that in any action by the lessor to enforce a lien for rent payable with respect to leases under this section, the unit owner may interpose any defenses, legal or equitable, that he may have with respect to the lessor's obligations under the lease. If the unit owner interposes any defense other than payment of rent under the lease, the unit owner shall pay into the registry of the court the accrued rent as alleged in the complaint, or as determined by the court, and the rent which accrues during the pendency of the proceeding, when due. Failure of the unit owner to pay the rent into the registry of the court as provided herein constitutes an absolute waiver of the unit owner's defenses other than payment and the lessor shall be entitled to an immediate default. When the unit owner has deposited funds into the registry of the court as provided herein, the lessor may apply to the court for disbursement of all or part of the funds as may be shown to be necessary for the payment of taxes, mortgage payments, maintenance and operating expenses, and other necessary expenses incident to maintaining and equipping, the leased facilities. The court, after preliminary hearing, may award all or any part of the funds on deposit to the lessor or may proceed immediately to a final resolution of the cause.*

The Committee on Consumer Affairs offered the following amendment to Amendment 1 which was moved by Senator Firestone and adopted:

**Amendment 1c**—On page 17, strike lines 28 through 30, and on page 18 strike lines 1 through 10 and renumber subsequent sections.

Senator Trask moved the following amendments to Amendment 1 which were adopted:

**Amendment 1d**—On page 34, line 12 strike "description and inventory that are sufficient to identify it." and insert: *a general description of the items of personal property and the approximate number of each item of personal property that the*

developer is committing to furnish for each room or other facility, or in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

**Amendment 1e**—On page 34, line 16, insert: *This provision shall not prohibit the adding of additional land or personal property in accordance with the terms of the lease provided that there is no increase in rent nor material increase in maintenance costs to the individual unit owner.*

#### The President presiding

**Amendment 1f**—On page 35, line 26, strike "*exclusively by unit owners and their guests*"

Senators Firestone and Zinkil offered the following amendment to Amendment 1 which was moved by Senator Firestone and adopted:

**Amendment 1g**—On page 77, line 8, strike the period (.) and insert: ; provided however that nothing contained in Sections 711.63, other than 711.63(4), and 711.64, Florida Statutes shall affect:

(a) Rights established by contract for sale of a unit by a developer to a prospective unit owner prior to July 1, 1974.

(b) A condominium or a cooperative as to which rights are established by contract for sale of a unit in the condominium or cooperative by the developer to a prospective unit owner prior to July 1, 1974.

(c) The form of a lease that would be otherwise subject to the requirements of §711.63, Florida Statutes, if the lease form is established by contract for sale of a unit in any condominium or any cooperative by the developer to a prospective unit owner prior to July 1, 1974, which lease form may be used in the making of all leases of the leased property and as to such other property that may be added to the leased property in accordance with the terms of the lease;

(d) And provided further that if on October 1, 1974, there are less than six remaining unsold units in a condominium or cooperative in which there have been binding contracts for the sale of other units executed prior to October 1, 1974, then the requirements of 711.69, Florida Statutes, shall not be applicable to the sale or offering of such remaining unsold units; and provided further that nothing contained in section 711.65, Florida Statutes shall affect a condominium or a cooperative as to which rights are established by contracts for sale of ten per cent (10%) or more of the units in the condominium or cooperative by the developer to prospective unit owners prior to July 1, 1974, or as to condominium or cooperative buildings on which construction has been commenced prior to July 1, 1974.

Amendment 1 as amended was adopted.

The Committee on Consumer Affairs offered the following title amendment which was moved by Senator Trask:

**Amendment 2**—Strike the title and insert: A bill to be entitled An act relating to condominiums and cooperative apartments; amending Section 711.03(7), (9) and (13), Florida Statutes, and adding new subsections 711.03(3), (12) and (17), to define the terms "board of administration", "developer" and "residential condominium"; amending Section 711.04(1), Florida Statutes, relating to the term "condominium parcel", to include certain leaseholds within its meaning; amending Section 711.06(1)(a), Florida Statutes, relating to the term "common elements" and adding a subsection to accommodate the use of a leasehold and to provide for enlarging of the common elements by amendment to the declaration; amending Section 711.08, Florida Statutes, to incorporate the use of certain leaseholds and to provide for the contents of the declaration of creation; amending Section 711.10(3), Florida Statutes, relating to amendment of the declaration, to provide that a unit owner's share in common expenses and surplus may not be changed unless the unit owner joins in the amendment, providing for scrivener's error; amending Section 711.11(1) and (2), Florida Statutes, to provide for inclusion of certain provisions in the bylaws of a condominium; amending Section 711.12, Florida Statutes, to permit an association to operate more than one (1) condominium and to provide certain other powers for condominium associations; repealing Section 711.13(4), Florida Statutes, as amended, which relates to cancellation of contracts for maintenance, management, or operation of a condominium;

amending Section 711.15(6), Florida Statutes, relating to assessment liability, to provide protection for certain purchasers at mortgage foreclosure sales; repealing Section 711.19(3), Florida Statutes, which relates to the application of homestead exemption from taxation; amending Section 711.20(1), Florida Statutes, to provide that no liens for rent subject to 711.63 shall be enforceable; redesignating Section 711.23, Florida Statutes, as Section 711.62 and amending said section to provide for obligations for unit owners and associations and penalties for violations; repealing Section 711.24, Florida Statutes, which relates to full disclosure prior to sale; redesignating Section 711.25, Florida Statutes, as Section 711.67, Florida Statutes, and amending said section to provide for escrow accounts and the use of proceeds from sale of condominiums and cooperative apartments prior to closing; repealing Sections 711.30, 711.31 and 711.32, all Florida Statutes, which relate to maintenance, disclosure prior to sale, and deposits for cooperative apartments; creating Sections 711.41, 711.42, 711.43, 711.44, 711.45, 711.46 and 711.47, Florida Statutes, relating to cooperative apartments; providing for cooperative parcels, appurtenances, possession, and enjoyment; providing for bylaws; providing for cooperative associations; providing for common expenses and common surplus; providing for assessments and liabilities; creating Sections 711.61, 711.63, 711.65, 711.66, 711.68, 711.69, 711.70 and 711.71, Florida Statutes, relating to creation, sale and lease of condominiums and cooperative apartments; providing for contents of leases; providing that the terms and conditions of lease on common elements shall be disclosed, providing option to purchase the leased property; providing warranties at sale; providing for transfer of association control; providing for contents of prospectuses; providing for disclosure; providing for publication of false or misleading information; providing for corrections by the associations or courts; providing a severability clause; providing an effective date.

Senator Zinkil moved the following title amendments to Amendment 2 which were adopted:

**Amendment 2a**—On page 2, strike all of lines 14—16 and insert: of homestead exemption from taxation; redesignating

**Amendment 2b**—On page 3, between lines 4 and 5, insert: providing for enforcement of liens for rent;

Amendment 2 as amended was adopted.

On motion by Senator Trask, by two-thirds vote HB 2155 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—36

Mr. President	Gordon	Myers	Stolzenburg
Barron	Graham	Peterson	Sykes
Brantley	Gruber	Pettigrew	Trask
Deeb	Henderson	Plante	Vogt
de la Parte	Johnson	Poston	Weber
Firestone	Lane (31st)	Saunders	Williams
Gallen	Lane (23rd)	Saylor	Wilson
Gillespie	Lewis	Sims	Winn
Glisson	McClain	Smathers	Zinkil

Nays—None

By unanimous consent Senators Childers, Johnston and Ware were recorded as voting yea.

#### Explanation of vote on HB 2155

HB 2155 as amended and passed here today is very nearly the same, in all important aspects, as SB 836 (1973) which I introduced and SB 12 (1974) which I co-introduced.

Richard Deeb, 19th District

**SB 499**—A bill to be entitled An act relating to condominiums and cooperatives; creating Section 711.64, Florida Statutes, providing requirements for completion of phase projects; providing an effective date.

—was read the second time by title.

The Committee on Consumer Affairs offered the following amendments which were moved by Senator Zinkil and adopted:

**Amendment 1**—On page 3, strike lines 19 through 25 and insert: (5) The effect of a developer's commitment shall be contractual and its contents shall be deemed a part of the developer's contract obligations in respect of the contract for the sale of each condominium or cooperative unit to which the commitment shall be applicable. The representations made by a developer in the developer's commitment as required by paragraph (3)(f) shall, however, be only for the benefit of unit owners in cooperatives or condominiums which are next abutting as therein defined, and the developer's commitment with respect to the representations made in accordance with the requirements of paragraph (3)(f) above shall be actionable only by unit owners or the association in condominiums or cooperatives for whom the disclosure is required to be made under the provisions of paragraph (3)(f) and by no other persons. Should the developer include information under paragraph (3)(f) in the developer's commitment beyond that required to be disclosed in respect of any particular cooperative or condominium, such additional information shall not be binding upon the developer but shall be deemed surplusage.

(6) Nothing contained herein shall prohibit the developer from building or including additional facilities, land, structures or personal property as part of the common facilities unless a material increase in the cost of maintenance of each of the unit owners would result therefrom.

**Amendment 2**—On page 2, strike lines 13 through 30 and insert: (c) The developer may provide that additional lands not legally described as required above may be added to the proposed project by indicating the general location and maximum number of acres which may so be added. Provided, however, that in such case the developer shall also set out the minimum dollar amount that the developer will be obligated to expend or cause to be expended in the providing of additional facilities which he is not otherwise obligated to provide, which dollar amount shall be on a per acre basis or on a per additional condominium of cooperative unit basis for condominium or cooperative units contained within such additional lands, or on a per acre or a per additional dwelling unit basis if residential units other than condominium or cooperative units are involved and contained within such lands.

(d) A legal description of the land that will contain the proposed commonly used facilities to the extent that such land is not included in the land described in paragraph (a).

(e) A statement of the minimum and maximum quantity of land intended to be used for commonly used recreational facilities.

(f) A plot plan or alternate plot plans of the land described in paragraphs (a) and (b) showing the approximate location of the recreational and other facilities intended to be used in common other than rights-of-way.

(Re-letter subsequent paragraphs)

**Amendment 3**—On page 1, lines 27—28 strike "declaration or cooperative documents" and insert: prospectus as required by section 711.69, Florida Statutes,

On motion by Senator Zinkil, by two-thirds vote SB 499 as amended was read the third time by title, passed and ordered engrossed. The vote was:

Yeas—38

Mr. President	Graham	Pettigrew	Trask
Barron	Gruber	Plante	Vogt
Brantley	Henderson	Poston	Ware
Deeb	Johnson	Saunders	Weber
de la Parte	Lane (31st)	Sayler	Williams
Firestone	Lane (23rd)	Scarborough	Wilson
Gallen	Lewis	Sims	Winn
Gillespie	McClain	Smathers	Zinkil
Glisson	Myers	Stolzenburg	
Gordon	Peterson	Sykes	

Nays—None

By unanimous consent Senators Childers and Johnston were recorded as voting yea.

**Explanation of vote on HB 2155 and SB 499**

Although not required under Rule 1.36 relating to disclosure, I wish to reveal my investment interest in the construction of

a condominium. My total investment represents approximately 5% interest.

The condominium project provides for no recreation or land lease. Deposits are held in escrow and are not utilized. No management contracts extend beyond the period when unit owners assume control of the association and generally the project is within and beyond the spirit and intent of HB 2155.

*George Firestone, 36th District*

**SCR 784**—A concurrent resolution expressing the support of the legislature for the inclusion of the University of Tampa in the annual football series among the state's universities; urging the universities to take appropriate action.

—was read the second time.

**The President Pro Tempore presiding**

Senator Saunders moved the following amendment which failed:

**Amendment 1**—On page 2, line 11, strike "respectfully urges" and insert: directs

On motion by Senator McClain SCR 784 was read in full, adopted and certified to the House. The vote was:

Yeas—28

Barron	Glisson	Myers	Smathers
Brantley	Gordon	Peterson	Stolzenburg
Deeb	Gruber	Plante	Trask
de la Parte	Henderson	Poston	Ware
Firestone	Johnson	Sayler	Weber
Gallen	Lane (23rd)	Scarborough	Winn
Gillespie	McClain	Sims	Zinkil

Nays—8

Graham	Lane (31st)	Pettigrew	Vogt
Johnston	Lewis	Saunders	Williams

By unanimous consent Senators Childers and Sykes were recorded as voting yea.

**SB 66**—A bill to be entitled An act relating to negligence actions; amending chapter 768, Florida Statutes, by adding section 768.16; providing that damages be awarded according to the comparative negligence principle; providing for contribution among defendants; providing for special verdicts; providing for abolishment of doctrine of last clear chance; providing an effective date.

—was read the second time by title.

The Committee on Judiciary offered the following amendments which were moved by Senator McClain and adopted:

**Amendment 1**—On page 1, lines 23 and 24, strike "was not as great as" and insert: was not greater than

**Amendment 2**—On page 1, line 7, strike "768.16" and insert: 768.31

**Amendment 3**—On page 1, lines 16—18, strike "Section 1. Chapter 768, Florida Statutes, is amended by adding section 768.16 to read:

768.16" and insert: Section 1. Chapter 768, Florida Statutes, is amended by adding section 768.31 to read:  
768.31

On motion by Senator McClain, by two-thirds vote SB 66 as amended was read the third time by title and ordered engrossed.